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DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1984

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

FIRST SESSION

Pages 1-1587

Department of Commerce
Department of Justice
Department of State
The Judiciary
Arms Control and Disarmament Agency
Board for International Broadcasting
Commission on Civil Rights
Commission on Security and Cooperation in Europe
Department of Transportation—Maritime Administration
Department of the Treasury—Chrysler Corporation Loan Guarantee Program
Equal Employment Opportunity Commission
Federal Communications Commission
Federal Maritime Commission
Federal Trade Commission
International Trade Commission
Japan-United States Friendship Commission
Legal Services Corporation
Marine Mammal Commission
Nondepartmental Witnesses
Office of the U.S. Trade Representative
Securities and Exchange Commission
Small Business Administration
U.S. Information Agency

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DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1984

TUESDAY, MARCH 2, 1983

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 9:30 a.m. in room S-146, the Capitol, Hon. Paul Laxalt (chairman) presiding.

Present: Senators Laxalt and Specter.

BOARD FOR INTERNATIONAL BROADCASTING

STATEMENT OF FRANK SHAKESPEARE, CHAIRMAN

ACCOMPANIED BY:
- BEN J. WATTENBERG, VICE CHAIRMAN
- JAMES L. BUCKLEY, PRESIDENT, RFE/RL, INC.
- JAMES H. MICHEL, DEPUTY ASSISTANT SECRETARY OF STATE FOR INTER-AMERICAN AFFAIRS

OPENING REMARKS

Senator LAXALT. The subcommittee will come to order.

This morning we begin consideration of the fiscal year 1984 estimates for the Departments of Commerce, Justice, State, the Judiciary, and the Related Agencies funded by this subcommittee. According to the subcommittee's figures, the estimates total $10.1 billion in new budget authority for fiscal year 1984, an increase of $800 million over the fiscal year 1983 appropriations to date.

Before we focus on the first request, I would like to state as a matter of record that I will do all I can as chairman to see that this subcommittee does not exceed its budget allocations. This will force members of this committee, as well as all Members of Congress to make many difficult decisions over the year, but no other alternative course of action is possible. Every agency must hold the line on wasteful Government expenditures. The committee will carefully scrutinize every request and will do all it can to see that the taxpayers' interests are well protected.

There is a second general point I would like to make. I have asked each agency appearing before the subcommittee to prepare a detailed summary of its budget request. These summaries will be placed in the record along with the verbal statements of each witness.

BUDGET REQUEST

Our first request is that of the Board for International Broadcasting. The amount requested for fiscal year 1984 is $115,702,000, which is an increase of $25,402,000 over the fiscal year 1983 base.

There are two new programmatic developments connected with BIB this year. The first is a supplemental request of $21,300,000 for Radio Free Europe/Radio Liberty in fiscal year 1983. This is the beginning of a long-term initiative designed to upgrade all our overseas radios. The program was developed in response to a study done by the National Security Council. I request the opportunity to review that study later this year.

The second development is the decision to place Radio Marti under the jurisdiction of the BIB. If authorized, the Radio Marti estimate is $8,540,000 for fiscal year 1983 and $9,647,000 for fiscal year 1984.

Appearing on behalf of this request is Mr. Frank Shakespeare, the BIB Chairman, who is accompanied by Ben J. Wattenberg, BIB Vice Chairman; James L. Buckley, RFE/RL, Inc., President; and James H. Michel, Deputy Assistant Secretary of State for Inter-American Affairs, who will testify on matters concerning Radio Marti.

Mr. Shakespeare, we are pleased to hear your comments.

Mr. SHAKESPEARE. I have no opening comments, Senator, and will seek to answer your questions.

PAYMENTS TO RFE/RL, INC. PENSION FUND

Senator LAXALT. Very well.

What would be the impact of granting the RFE/RL fiscal year 1983 supplemental requests for capital expenditures and covering the pension liability, but denying the other programmatic increases on the agency?

Mr. SHAKESPEARE. I would like to deal with the pension liability first.

Senator LAXALT. All right.

Mr. SHAKESPEARE. We have had a fairly stringent budget apparently in this operation for the last 10 years. As I understand it, the contribution to the pension fund, which is through a Swiss company, has been less than the increasing accrued liabilities.

It is estimated that the present liability in the pension funds totals approximately $9 million. We have analyzed that in three ways: one, through BIB personnel; two, through Arthur Andersen & Co., who are our accountants; and the third, through a professional consultant in West Germany on such matters.

Both the West German consultant and Arthur Andersen & Co. tell us that the underfunding is approximately $9 million. We have, therefore, requested $4.5 million in the supplemental for this year, and $4.5 million in the fiscal year 1984 budget. Those two amounts of money will be given in a lump sum to Swiss Life and will bring us up to date on the pension fund.

Senator **Laxalt**. So you are satisfied with the increase that you described, that these funds are absolutely essential?

Mr. **Shakespeare**. Yes, sir, I am.

ILLUSTRATIVE EXAMPLES OF BUDGETARY STRINGENCIES ON TRAVEL

Senator **Laxalt**. Why are travel costs projected to increase from $276,000 in fiscal year 1982 to $1,216,000 in fiscal year 1984, which represents about a four-fold increase, for RFE/RL alone?

Mr. **Shakespeare**. I would like to ask both Mr. Wattenberg and Mr. Buckley to remark on that after I make a brief observation.

Basically, that travel money has to do with our estimate of one of the ways in which we can increase programing creativity in Munich, which is where our Broadcast Center is located. It has approximately 1100 people. Only a mere handful of those people can travel in and travel out of Munich. Munich, while it is a charming city, does not have the flux of ideas that Paris, London, New York, or Washington do. We broadcast each day in 21 languages, so it is appropriate to think of these radios as really being 21 different networks broadcasting into recipient countries.

Approximately 75 percent of our employees there are emigres from those countries. Their natural language is a foreign language. They move into a community like Munich, they stay there for 30 years and they tend to talk to each other. That can develop a complex.

Senator **Laxalt**. It is like Washington.

Mr. **Shakespeare**. Even worse, sir, because Munich is a relatively more isolated community than Washington. It will not happen anymore in Paris or London, but if you take a smaller city, it is off the beaten track, and then it becomes very difficult.

We feel that it would be very advantageous to take some of the best and most involved people from our society and have them go to Munich and talk about people there. For example, to have Max Kampelman, who heads our Helsinki Accords discussions in Madrid, go to Munich and spend 2 or 3 days and sit with these people who broadcast every day in Eastern Europe and tell them what it is like. Of course, we send a correspondent to Madrid to cover it but that is very different than actually being there to feel here is what the Soviet approach is and here is what the French approach is and this is what is happening and these are the issues, and that livens the broadcast immensely. I used that as an example.

Another example will be to take our people out of Munich. When there are key seminars on what is going on in the Soviet Union occurring in London or places like that, we should be able to take a half dozen of our key people and send them there. So, the whole purpose of these travel funds is tightly geared to programing and improving programs.

I would like to ask Mr. Wattenberg, who in addition to being vice-chairman of the Board is chairman of the program committee, and Mr. Buckley, who runs the operation on a day-to-day basis, if they have comments in that regard.

Mr. **Wattenberg**. Thank you.

TRAVEL BUDGET

Senator, I would like to associate myself with the remarks that Chairman Shakespeare made. It is simple. You can't be a good journalist if you don't move around. What has happened in the past in Radio Free Europe, is that every time there was a budget cut the easiest thing to cut was travel. You don't have to fire, you don't have to remove the slot, we lower the travel budget.

I visited our bureau in London last summer. That was a bureau originally designed to house 25 working journalists and through various cuts was taken down to 5 working journalists, and the travel budget for the 5 working journalists had been reduced to $700 a year for five working journalists. That is barely enough to take the bus to get downtown. It ultimately ended up showing no product.

It is not an accident that commercial stations, new stations, in the United States will sign off their stories: "This is your correspondent, Joe Blow, talking from wherever." That lends excitement, it adds accuracy, it adds insight and it is what makes a station a good station.

We are spending $100 million of taxpayers' money, more than that we hope, and the last little bit of it is what makes the editorial product, it is what makes the difference between a bland and dull station and something that is exciting and draws listeners.

If we are trying to get some excitement and build our audience, it seems to me this is a small amount.

Senator **Laxalt**. Thank you. Jim, would you like to comment?

Mr. **Buckley**. To elaborate on what these two gentlemen have said, of course we have the correspondent in Madrid. We barely have a correspondent in Madrid if we do not have the travel money to go there. We have only gotten somebody to Afghanistan once, and yet that is the hottest story going.

We are dealing with 21 different nationalities hungering for information in the West, and often that is best seen through their own emigres or people who have a meaning for them. The best way to communicate with them is with a live mike, and they don't go to Munich but we are able to get Munich to them.

FUNDS REQUESTED FOR TECHNICAL MODERNIZATION AND UPGRADED PROGRAMING

Senator **Laxalt**. Let's talk about the modernization program. The administration initiated a long-range modernization program in November 1982 when a supplemental request for $29.8 million, was submitted to Congress. What is the total cost and timeframe for implementation of this long-range modernization program, Mr. Shakespeare?

Mr. **Shakespeare**. There are two aspects of the program, Senator. One has to do with programing, and the other has to do with substantial improvement in the transmitters

The programing funds, by and large, are included in what we have asked for in the supplemental request this year and annualizing them in the full budget for fiscal year 1984. We do not envision any substantial increases other than inflation in the time we have.

We are pretty much arriving at the water level we want to arrive at.

The transmitter situation is very difficult. We will be coming to the Congress sometime in the future with a separate appropriation request for new transmitter sites and possibly for a substantial improvement of one present transmitter site.

Senator **Laxalt**. Have you located the new ones yet?

Mr. **Shakespeare**. No, sir. The reason we have not is because transmitter sites are not so much a question of money as they are the question of determining a host country that can be recipient to the transmitter site, and that is in the process.

Senator **Laxalt**. Do you have any timeframe on it at all?

Mr. **Shakespeare**. It is being worked on. If I were to guess, Senator, I would say 3 to 6 months.

Senator **Laxalt**. What kind of dollars are you talking about, ball park?

Mr. **Shakespeare**. Well, it would be a combined site for RFE/RL and VOA, and my guess would be in the neighborhood of $200 million.

Senator **Laxalt**. The commitments would be made up front?

Mr. **Shakespeare**. The cash flow would probably be over 5 to 6 years.

Senator **Laxalt**. We have several questions, which I am going to submit for the record because of limitation of time and hopefully you can get back to us.

ADMINISTRATION'S PROPOSALS FOR RADIO MARTI

Let's talk about Radio Marti for just a moment if we may.

Mr. **Shakespeare**. Mr. Chairman, may I make an explanation on Radio Marti before you ask the question?

Senator **Laxalt**. Surely.

Mr. **Shakespeare**. In the short session of Congress late last year, the bill that was approved by the House and reported by the Senate Foreign Relations Committee both put Radio Marti under the Board for International Broadcasting. The bill which has now been submitted to the Congress by the administration would do the same thing.

Senator **Laxalt**. What is the feeling of the Board?

Mr. **Shakespeare**. The feeling of the Board is that this is a decision that should be made by the administration, by the Senate, and the House. And, so we have stood silent on the matter, and the State Department has, in effect, prepared the budget as they see it because no one knows what agency this will eventually go into.

Mr. Michel, our witness from the State Department, knows the details of that merger and will be in a position to respond to the questions.

Senator **Laxalt**. Very well.

The study indicates that Radio Marti plans to construct transmitter facilities in Florida and the Caribbean. At the same time, VOA is planning to rebuild its Marathon Relay Station, which has been broadcasting to Cuba for 20 years. VOA transmission schedules indicate that Marathon is used about 6 hours a day. Yet, the report states—I am referring to the GAO report—"There are no indications that VOA or Radio Marti will share existing or planned facilities."

Understanding that the two agencies focus on different types of radio receivers, what has been done to coordinate with VOA on broadcasts to Cuba? Mr. Michel?

Mr. MICHEL. Mr. Chairman, the administration transmitted to Congress on February 24 a new draft bill providing authorizing legislation for Radio Marti. The legislative proposal takes into account the consultations which were held with Members of Congress and the broadcast industry in looking at the various issues like this that had been raised.

Consequently, the administration's proposal provides for a variety of options in deciding what is the best way to conduct these transmissions. And one of the options available under this legislation is the use of the VOA broadcast facilities. So, while the matter is not decided, that is a possible way.

Senator LAXALT. But coordinating this activity is under active consideration?

Mr. MICHEL. Yes, sir, it is.

CONSIDERATION OF INTERESTS OF JAMMED U.S. BROADCASTERS

Senator LAXALT. Now, if the Congress requires compensation for jammed U.S. transmissions when it authorizes Radio Marti, how will the program be administered? Will there be a supplemental request, and do you have an estimate as to what this eventually is going to cost?

Mr. MICHEL. Mr. Chairman, it is indeed a speculative issue, and radio interference is an old problem that did not begin with Radio Marti. The administration does not favor compensation for broadcasters because of that interference and particularly because we might have interference at the same time as, but not necessarily because of, Radio Marti. We favor technical measures possible through FCC actions to mitigate difficulties, but we do not favor compensation.

Senator LAXALT. Very well.

Senator Specter, do you have any questions to ask?

Senator SPECTER. I do not, Mr. Chairman.

SUBMITTED QUESTIONS

Senator LAXALT. I don't have any more either. As I indicated, we will have other questions which we will submit to you in more detail. I don't want to take the time to do it this morning.

I appreciate all of you coming in. You do an excellent job, and I look forward to working with you.

Mr. SHAKESPEARE. Thank you, Senator.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR LAXALT

QUESTION: What would be the impact of granting the RFE/RL FY 1983 supplemental requests for capital expenditures and covering the pension liability but denying the other programmatic increases on the agency? How would this lower the FY 84 request?

ANSWER: The FY 1983 supplemental request for one-time capital expenditures totals $11,716,000. However, in the cases of computer expansion and start-up of news bureaus and monitoring sites, an additional amount of $1,058,000 will be required in FY 1983 for related operational costs (computer software and maintenance, computer communication circuits, support costs for three news bureaus and two monitoring sites, and 14 additional personnel). If these additional funds are not granted in FY 1983, the equipment could be purchased, but projects would have to be delayed until funds could be provided in FY 1984.

If other vital programmatic and technical increases are denied, RFE/RL will be unable to:

1. Fill serious gaps in our news-gathering capabilities by postponing the establishment of bureaus in Pakistan (to cover Afghanistan), the Far East and Middle East; improve Soviet area research and Radio Liberty non-Russian nationality services programming; and strengthen RFE desks.

2. Accelerate staff rejuvenation through limited double-slotting and an intern program, which would permit management to have the flexibility to screen, audition and train young emigrants for upcoming vacancies.

3. Expand free-lance programming, establish competitive rates, and thus attract a more distinguished group of contributors in Western Europe and the United States.

4. Join with Federal agencies in jamming research to develop anti-jamming techniques, as well as in research and development in the feasibility of using direct broadcast satellites for international broadcasting.

5. Participate in preparation and research for World Administrative Radio Conference (WARC) 1984.

6. Expand Soviet citizen, non-Russian and Bulgarian audience assessment interviews.

7. Implement an editorial training program.

8. Increase travel sharply for live coverage and on-the-spot coverage by language and central news correspondents.

9. Provide for critical improvements and essential, long-deferred maintenance at transmitter sites.

10. Install broadcast-quality program relays and thereby improve audio quality and ability to penetrate jamming.

If only capital and pension funds are provided in the FY 1983 Supplemental request, the FY 1984 request would be reduced by $6,789,000 (at DM 2.50) to $96,796,000, and opportunities to improve quality and depth of programming will be lost.

QUESTION: Why are travel costs projected to increase from $276,000 in FY 1982 to $1,216,000 in FY 1984 (over a 4 fold increase) for RFE/RL alone?

ANSWER: Budgetary stringencies over the years have led to continual curtailment of travel by news, program and research personnel. The result has been impoverishment of programming through excessive "second-hand" material, rewritten from wire services, and insufficient on-the-scene coverage of numerous events taking place outside the vicinity of the Munich Broadcast Center. Travel funds have not been available to bring important news sources, or U. S. personnel from missions in the Soviet Union and Eastern Europe, to the Broadcast Center; at the same time, travel by research specialists to academic centers in the West has been severely restricted. An amount of $742,000 has been included in the FY 1984 Budget request to ensure such coverage.

In FY 1982, due to budgetary economies necessitated by the Polish crisis and unanticipated terminations, travel by news, program and research personnel was severely restricted to an actual cost of $276,000. The FY 1983 budget provided an amount of $266,000 for travel, which when projected into FY 1984, becomes $289,000. The total FY 1984 travel budget of $1,216,000 includes the following:

Normal Programming, News, Engineering, Administrative Travel	$ 289,000
Increased Programming and News Travel	742,000
Additional Travel for 3 News Bureaus and Two Monitoring Sites	80,000
1984 Olympic Games Coverage	80,000
Travel in Connection with Editorial and Broadcast Training Programs	25,000
	$1,216,000

QUESTION: How will the $80,000 requested for Olympic Games coverage be spent?

ANSWER: Costs incurred for the 1984 Olympic Games coverage will be for travel and housing ($46,500), studio/office space ($12,000), telephone, telex and feed lines ($14,500) and miscellaneous ($7,000) for teams of 15 RFE/RL personnel in Los Angeles and 14 in Sarajevo.

QUESTION: What is RFE/RL's involvement in the World Administrative Radio Conference (WARC)? (RFE/RL has asked for $50,000 for this activity.)

ANSWER: All but one of RFE/RL's 46 transmitters are short-wave transmitters; given changing atmospheric conditions, some 80 short-wave frequencies are utilized in the course of the year in the effort to assure audible broadcasts in 21 languages. The first session of the WARC High-Frequency Broadcast Conference, beginning in January 1984, will be devoted to examining, and proposing alternatives to, the present world-wide allocation of short-wave frequencies among some 125 nations. Because many new nations in the the Third World seek to establish or expand their short-wave capacity (often for domestic as well as international communication), and because many of the most desirable short-wave bands are congested or rendered largely useless by jamming, initiatives can be expected to reduce the number of frequencies available to the United States -- that is, to the Voice of America and RFE/RL. Persuasive diplomacy, backed up by expert technical assessment of a variety of specific possible compromise formulas, will be required to preserve VOA and RFE/RL broadcast capacity. For the past two years, RFE/RL technical personnel as well as BIB staff have been actively participating in various interagency working groups charged with formulating U. S. policies for the conference. The $50,000 requested in the FY 83 supplemental is needed to defray travel and administrative costs involved as the preparatory work intensifies.

QUESTION: According to a July 29, 1982 GAO report, "The Voice of America Should Address Existing Problems to Ensure High Performance", The Voice of America was not coordinating with other U. S. agencies to share resources and cut costs. In a number of specific examples, the report criticized RFE/RL and VOA for failing to share facilities. What is RFE/RL doing to remedy this problem? What other actions is RFE/RL taking to cooperate with other U. S. Government agencies to share facilities?

ANSWER: Congressional inquiries in 1972, a Presidential study in 1976, and a broad new inter-agency review in 1982 all confirmed that both VOA and RFE/RL transmitters are being utilized to capacity for their own programs, and that therefore no realistic possibility for sharing facilities exists. However, the 1982 study recommended that joint new facilities be sought for VOA and RFE/RL in the Middle East and Far East, to improve the broadcast signal to Soviet Central Asia and Kazakhstan, Afghanistan, Siberia and the Soviet Maritime Provinces. The Department of State is currently exploring the possibilities with friendly governments in the area.

QUESTION: The Board for International Broadcasting Act of 1973 was amended in 1982 to provide that the members of the BIB would serve as the sole directors of RFE/RL, Inc., with authority to determine policy and appoint management. The BIB was also expanded from five to nine members. With the expanded role of the BIB members, will there be a corresponding change in the role of the BIB staff?

ANSWER: It is expected that the BIB staff, as it is presently organized, will be able to support the increased number of BIB members in carrying out their oversight mission of RFE/RL.

QUESTION: Can or should any of the functions now performed by the BIB staff be performed by the RFE/RL staff? Can the BIB staff functions such as program evaluation, engineering, or research be performed by consultants?

ANSWER: The House-Senate Conference Report (No. 97-693) on the BIB authorization for fiscal years 1982 and 1983 addresses this matter on page 47 as follows:

"However, the BIB and RFE/RL, Inc., will and must remain very distinct and different institutions. RFE/RL, Inc. is a nonprofit broadcasting corporation; the BIB is a Federal oversight agency. The task of RFE/RL personnel is to prepare and transmit high-quality broadcasts. The statutory role of BIB is to oversee, assess, and evaluate the quality and effectiveness of those broadcasts in the context of broad U. S. foreign policy objectives, and to assure efficient management of public funds in accordance with legislative mandate.

"The committee of conference raised questions as to how these objectives can be assured when the Presidentially appointed BIB members serve only part-time--the equivalent of 30 or perhaps in some cases 45 days a year. RFE/RL broadcasts 146 hours a day, 365 days a year, in 21 East European and Soviet languages from transmitter sites located in three West European countries. Federal oversight of such a complex and politically sensitive enterprise must be continuous; it cannot be suspended for weeks or months at a time while waiting for Board members to meet or to be appointed by new administrations. That is why the original legislation provided for a full-time Federal staff drawn from the competitive service. The present BIB staff has maintained that continuity of oversight over the years. It is the expectation of the committee of conference that this indispensable function of the BIB staff--totally separate from RFE/RL operational management--will continue to be exercised effectively under the new arrangement."

QUESTION: The budget request for BIB shows a 100 percent increase in travel and transportation of persons. The justification states that one of the reasons is to increase members' oversight of and involvement in RFE/RL operations. Would you explain what is meant by "involvement in RFE/RL overseas operations?" How does this relate with the understanding that the professional radio management is responsible for the day-to-day operations?

ANSWER: Prior to last August, when BIB authorizing legislation was amended, the BIB shared supervisory responsibilitities with a 25-person private board of directors of RFE/RL, nearly all of whose members had visited Munich and other locations on one or more recent occasions. Under the amended legislation, the nine-member BIB makes all policy determinations, including appointment and removal of managerial officers. First-hand knowledge of the principal locations is essential to informed decision-making, as all but 85 of the 1,675 RFE/RL employees work overseas under varying contract conditions, and fewer than a fourth are U. S. citizens. It should also be noted that the FY 84 request provides for new monitoring facilities and program bureaus in the Middle East and Far East as well as Scandinavia; BIB members are expected to help in the discussions with local authorities needed to arrange such facilities. Such increased BIB member oversight of and involvement in RFE/RL operations will in no way impinge on the day-to-day operations of the radios which will continue to be the responsibility of the radios' professional management staff.

QUESTION: Would you provide for the record a breakdown of the members and staff travel for fiscal years 1982 and 1983 through March 1, 1983? This should include the traveler, mode of transportation, dates and places of visit, cost and purpose with statement of how the trip relates to BIB's mission.

BOARD FOR INTERNATIONAL BROADCASTING

TRAVEL - FY 1982

TRAVELER	TITLE	DATES OF TRAVEL	ITINERARY	CLASS	COST (Actual)*	PURPOSE	RELATION OF TRIP TO AGENCY MISSION
BOARD MEMBER TRAVEL:							
DOMESTIC:							
1. Gronouski, John A.	Member	11/16-18/81	Austin, TX-Washington, DC-Austin, TX	coach	$ 524*	Discussions w/BIB & House staffs re the role of the BIB.	Financial/programmatic oversight
2. Shakespeare, Frank	Chairman	1/4-5/82	Greenwich, Conn-Washington, DC-Greenwich, Conn.	coach	307*	Swearing in as BIB Chairman.	Presidential appointment
3. Shakespeare, Frank	Chairman	1/28-30/82	Greenwich, Conn.-Washington, DC-Greenwich, Conn.	coach	384*	Confer w/BIB staff, Congress, & Senate members on int'l broadcasting facilities/objectives.	Programmatic/technical oversight
4. Shakespeare, Frank	Chairman	2/10-12/82	Greenwich, Conn-Washington, DC Greenwich, Conn.	coach	451*	Discussions w/BIB-RFE/RL, Inc. staffs re budget & programming.	Financial/programmatic oversight
5. Shakespeare, Frank	Chairman	2/15-18/82	Greenwich, Conn-Washington, DC Greenwich, Conn.	coach	435*	Meet w/RFE/RL Corporate Chairman; discuss program. w/staff.	Programmatic oversight
6. Shakespeare, Frank	Chairman	2/22-23/82	Greenwich, Conn.-Washington, DC Greenwich, Conn.	coach	307*	Attend House Approp. Hearing; discuss budget w/BIB-RFE/RL staffs.	Support Budget Request
7. Shakespeare, Frank	Chairman	2/25-26/82	Greenwich, Conn.-Washington, DC Greenwich, Conn.	coach	276*	Attend White House Mtg. re int'l broadcast. objectives.	Programmatic oversight
8. Shakespeare, Frank	Chairman	3/4-5/82	Greenwich, Conn.-Washington, DC Greenwich, Conn.	coach	258*	Confer w/BIB-RFE/RL staffs re programming and budget.	Programmatic oversight
9. Shakespeare, Frank	Chairman	3/10-12/82	New York, NY-Washington, DC-Greenwich, Conn.	coach	330*	Confer w/BIB-RFE/RL staffs re programming and budget.	Programmatic/financial oversight
10. Shakespeare, Frank	Chairman	3/15/82	New York, Washington, DC	coach	83*	Confer w/BIB staff re budget.	Financial oversight
11. Shakespeare, Frank	Chairman	3/17-18/82	Greenwich, Conn.-Washington, DC Greenwich, Conn.	coach	284*	Confer w/BIB staff re budget/programming.	Financial oversight

BOARD FOR INTERNATIONAL BROADCASTING

TRAVEL - FY 1982

TRAVELER	TITLE	DATES OF TRAVEL	ITINERARY	CLASS	COST (Actual)*	PURPOSE	RELATION OF TRIP TO AGENCY MISSION
BOARD MEMBER TRAVEL:							
DOMESTIC (con't):							
12. Shakespeare, Frank	Chairman	3/22-24/82	Greenwich, Conn-Washington, DC Greenwich, Conn.	coach	$ 401*	Attend Senate Approp. Hearing; discuss budget w/BIB staff.	Support Budget Request
13. Shakespeare, Frank	Chairman	3/29/82	Greenwich, Conn.-Washington, DC Greenwich, Conn.	coach	165*	Discuss BIB budget w/RFE/RL & BIB staffs.	Financial oversight
14. Shakespeare, Frank	Chairman	4/14-15/82	New York, NY-Washington, DC	coach	255*	Discuss budget w/BIB staff.	Financial oversight
15. Shakespeare, Frank	Chairman	4/21-22/82	Greenwich, Conn-Washington, DC	coach	266*	Discuss budget w/BIB staff.	Financial oversight
16. Shakespeare, Frank	Chairman	4/28-30/82	Greenwich, Conn-Washington, DC Greenwich, Conn.	coach	376*	Discuss programming & budget w/ RFE/RL & BIB staffs.	Programmatic/financial oversight
17. Shakespeare, Frank	Chairman	5/3/82	New York, NY-Washington, DC-New York, NY	coach	170*	Discuss programming & budget w/ RFE/RL & BIB staffs.	Programmatic/financial oversight
18. Shakespeare, Frank	Chairman	5/6-7/82	New York, NY-Washington, DC-New York, NY	coach	279*	Discuss programming & budget w/ RFE/RL & BIB staffs.	Programmatic/financial oversight
19. Shakespeare, Frank	Chairman	5/13-15/82	New York, NY-Washington, DC-Greenwich, Conn.	coach	328*	Discuss programming & budget w/ RFE/RL & BIB staffs.	Programmatic/financial oversight
20. Shakespeare, Frank	Chairman	5/24/82	Greenwich, Conn.-Washington, DC Greenwich, Conn.	coach	221*	Discuss programming & budget w/ RFE/RL & BIB staffs.	Programmatic/financial oversight
21. Shakespeare, Frank	Chairman	7/6-7/82	Greenwich, Conn-Washington, DC New York, NY	coach	267*	Discuss programming & budget w/ RFE/RL & BIB staffs.	Programmatic/financial oversight
22. Shakespeare, Frank	Chairman	7/8-9/82	Greenwich, Conn.-Washington, DC Greenwich, Conn.	coach	289*	Discuss programming & budget w/ RFE/RL & BIB staffs.	Programmatic/financial oversight
23. Shakespeare, Frank	Chairman	7/16/82	Greenwich, Conn-Washington, DC Greenwich, Conn.	coach	208*	Discuss programming & budget w/ RFE/RL & BIB staffs.	Programmatic/financial oversight

BOARD FOR INTERNATIONAL BROADCASTING

TRAVEL - FY 1982

TRAVELER	TITLE	DATES OF TRAVEL	ITINERARY	CLASS	COST (Actual)*	PURPOSE	RELATION OF TRIP TO AGENCY MISSION
BOARD MEMBER TRAVEL:							
DOMESTIC (con't):							
24. Shakespeare, Frank	Chairman	7/19-20/82	Greenwich, Conn.-Washington, DC Greenwich, Conn.	coach	$ 286*	Discuss programming & budget with RFE/RL & BIB staffs.	Programmatic/financial oversight
25. Shakespeare, Frank	Chairman	8/10/82	Greenwich, Conn.-Washington, DC Greenwich, Conn.	coach	373*	Discuss programming & budget with RFE/RL & BIB staffs.	Programmatic/financial oversight
26. Ablard, Charles D.	Member	8/15-17/82	Washington, DC-San Antonio, Austin, TX-Washington, DC	coach	328*	Tech. discuss w/Air Force Electronic Warfare Center in San Antonio; confer w/BIB former Chairman in Austin.	Exchange of technical information
27. Shakespeare, Frank	Chairman	8/18-19/82	Greenwich, Conn.-Washington, DC Greenwich, Conn.	coach	251*	Discussions re BIB budget for FY 1983 w/BIB & RFE/RL staffs.	Financial oversight
28. Shakespeare, Frank	Chairman	8/25/82	Greenwich, Conn.-Washington, DC Greenwich, Conn.	coach	258*	Discussions re BIB budget for FY 1983 w/BIB & RFE/RL staffs.	Financial oversight
29. Shakespeare, Frank	Chairman	8/27/82	Greenwich, Conn-Washington, DC Greenwich, Conn.	coach	196*	Discussions re BIB budget for FY 1983 w/BIB & RFE/RL staffs.	Financial oversight
30. Shakespeare, Frank	Chairman	8/30/82	Greenwich, Conn-Washington, DC Greenwich, Conn.	coach	196*	Discussions re BIB budget for FY 1983 w/BIB & RFE/RL staffs.	Financial oversight
31. Shakespeare, Frank	Chairman	8/31/82	Greenwich, Conn-Washington, DC Greenwich, Conn.	coach	258*	Discussions re BIB budget for FY 1983 w/BIB & RFE/RL staffs.	Financial oversight
32. Shakespeare, Frank	Chairman	9/8-9/82	Greenwich, Conn.-Washington, DC Greenwich, Conn.	coach	286*	Discussions re BIB budget for FY 1983 w/BIB & RFE/RL staffs.	Financial oversight
33. Shakespeare, Frank	Chairman	9/13-14/82	New York, NY-Washington, DC Greenwich, Conn.	coach	273*	Discussions re BIB budget for FY 1983 w/BIB & RFE/RL staffs.	Financial oversight
34. Shakespeare, Frank	Chairman	9/20-21/82	New York, NY-Washington, DC New York, NY	coach	237*	Discussions re BIB budget for FY 1983 w/BIB & RFE/RL staffs.	Financial oversight

BOARD FOR INTERNATIONAL BROADCASTING

TRAVEL - FY 1982

TRAVELER	TITLE	DATES OF TRAVEL	ITINERARY	CLASS	COST (Actual)*	PURPOSE	RELATION OF TRIP TO AGENCY MISSION
BOARD MEMBER TRAVEL:							
DOMESTIC (con't):							
35. Wattenberg, Ben J.	Member	9/24-25/82	Washington, DC-New York, NY-Washington, DC	coach	$ 213*	Tech. discussions w/RFE/RL staff re programming.	Programmatic/technical oversight
36. Shakespeare, Frank	Chairman	9/29-30/82	Washington, DC-Greenwich, Conn.	coach	197*	Discuss budget w/BIB staff.	Financial oversight
36 .... TOTAL - BOARD MEMBER - DOMESTIC TRAVEL					$10,216*		
OVERSEAS:							
1. Shakespeare, Frank	Chairman	11/17-21/81	Washington, DC-Paris, France-Washington, DC	coach	$ 1,668*	Attend West European Advisory Committee Meeting.	Exchange of programmatic information
2. Ablard, Charles D.	Member	1/5-16/82	Washington, DC-Madrid, Barcelona, Spain-Vienna, Austria-Tel Aviv, Israel-Zurich, Switz.-London, United Kingdom-Washington, DC	clipper	3,655*	Confer w/Am. Embassy officials in Spain, Austria, Israel; discuss broadcasting facilities/sites with BBC in London.	Exchange of programmatic information; technica oversight
3. Shakespeare, Frank	Chairman	1/9-17/82	Washington, DC-Munich, Germany Washington, DC	coach	1,993*	Consult w/RFE/RL staff & evaluate Munich facilities.	Technical oversight
4. Wattenberg, Ben J.	Member	1/16-20/82	Washington, DC-Munich, Germany Washington, DC	coach	1,206*	Confer w/RFE/RL staff re programming.	Programmatic oversight
5. Goode, Mark I.	Member	2/6-14/82	Washington, DC-Munich, Germany Washington, DC	coach	1,566*	Confer w/RFE/RL staff re programming & broadcasting goals.	Programmatic oversight
6. Shakespeare, Frank	Chairman	5/25-28/82	New York, NY-Munich, Germany-New York, NY	clipper	1,925*	Attend West European Advisory Comm. consult w/RFE/RL officials.	Exchange of programmatic information
7. Shakespeare, Frank	Chairman	6/23- 26/82	Greenwich, Conn-Bonn/Munich, Germany-Greenwich, Conn.	coach	1,989*	Discuss operational activities w/RFE/RL staff & Am. Embassy officials in Bonn.	Programmatic oversight

BOARD FOR INTERNATIONAL BROADCASTING

TRAVEL - FY 1982

TRAVELER	TITLE	DATES OF TRAVEL	ITINERARY	CLASS	COST (Actual)*	PURPOSE	RELATION OF TRIP TO AGENCY MISSION
BOARD MEMBER TRAVEL:							
OVERSEAS (con't):							
8. Shakespeare, Frank	Chairman	7/20-30/82	New York, NY-London, United Kingdom-New York, NY	clipper	$ 1,589*	Deliver speech on "Int'l Communication" at Leeds Castle.	Exchange of programmatic informatio
9. Wattenberg, Ben J.	Member	8/5-21/82	Washington, DC-London, United Kingdom-Munich, Germany-Wash,DC	coach	2,554*	Consultations with RFE/RL officials in Munich and BBC officials in London re int'l broadcasting objectives.	Exchange of programmatic information
10. Goode, Mark I.	Member	8/15-9/3/82	Washington, DC-London, United Kingdom-Munich, Germany-Wash, DC	coach	1,842*	Consultations with RFE/RL officials in Munich and BBC officials in London re broadcasting programming.	Exchange of programmatic information
11. Ablard, Charles D.	Member	9/1-19/82	London, United Kingdom-Brussels, Belgium-Munich, Germany-London, United Kingdom	coach	1,076*	Attend IISS Mtg. at Hague; discuss jamming w/RFE/RL officials in Munich and NATO officials in Brussels.	Exchange of programmatic information
12. Shakespeare, Frank	Chairman	9/23-25/82	New York, Munich, Germany-New York, NY	coach	1,458*	Discuss programming w/RFE/RL staff and attend farewell reception of former RFE/RL President.	Programmatic oversight
12 .... TOTAL - BOARD MEMBER - OVERSEAS TRAVEL					$22,521*		
18 .... TOTAL - BOARD MEMBER TRAVEL - FY 1982					$32,737*		
BOARD STAFF TRAVEL:							
DOMESTIC:							
1. Roberts, Walter R.	Executive Director	11/20-21/81	Washington, DC-New York, NY-Washington, DC	coach	$ 112*	Discuss Board member functions of BIB w/former and present members.	Programmatic oversight
Roberts, Walter R.	Executive Director	12/4/81	Washington, DC-New York, NY Washington, DC	coach	168*	Discuss broadcast. activities in Middle East w/G. Lev, Executive Director, Ministry of Communication.	Programmatic/technical oversight

BOARD FOR INTERNATIONAL BROADCASTING

TRAVEL - FY 1982

TRAVELER	TITLE	DATES OF TRAVEL	ITINERARY	CLASS	COST (Actual)*	PURPOSE	RELATION OF TRIP TO AGENCY MISSION
BOARD STAFF TRAVEL:							
DOMESTIC (con't):							
3. Roberts, Walter R.	Executive Director	3/10/82	Washington, DC-Boston, Mass.-Washington, DC	coach	$ 128*	Seminar on int'l broadcasting at Fletcher Sch. of Law/Diplomacy	Exchange of programmati information/ideas
4. Roberts, Walter R.	Executive Director	4/30-5/3/82	Washington, DC-New York, NY Washington, DC	coach	173*	Consult w/RFE/RL staff re NY Programming Center.	Programmatic oversight
5. Critchlow, James	Planning/Research Ofcr.	6/16-19/82	Washington, DC-Minneapolis, Minn.-Washington, DC	coach	475*	Attend "AABS 5th Conf. on Baltic Studies" & panel on Poland/Baltics.	Exchange of programmati information
5	TOTAL - BOARD STAFF - DOMESTIC TRAVEL		....		$ 1,056*		
OVERSEAS:							
1. Roberts, Walter R.	Executive Director	1/5-16/82	Washington, DC-Madrid, Spain-Vienna, Austria-Tel Aviv, Israel-London, United Kingdom-Washington, DC	clipper	$ 3,881*	Confer w/Am. Embassy/BBC officials in London; VOA-RFE/RL official in Vienna; confer w/Am. Embassy officials in Israel re int'l broadcast. objectives.	Exchange of programmati information/ideas
2. Roberts, Walter R.	Executive Director	6/23-7/17/82	Washington, DC-London, United Kingdom-Munich, Germany-Vienna, Austria-Belgrade, Yugoslavia-Zurich, Geneva, Switz.-Paris, France-Wash., DC	clipper	3,756*	Discussions w/Am. Embassy personnel re int'l broadcasting network; consult with RFE/RL officials re programming matters.	Programmatic oversight; exchange o programmatic information
2	TOTAL - BOARD STAFF - OVERSEAS TRAVEL		....		$ 7,637*		
7	TOTAL - BOARD STAFF TRAVEL - FY 1982		....		$ 8,693*		
CONSULTANT TRAVEL:							
DOMESTIC:							
1. Jacobs, George	Engineer Tech Adviser	1/13-15/82	Washington, DC-New York, NY-Washington, DC	coach	$ 427*	Participate in WARC-HFBC agenda items at frequency coordination mtgs.	Technical oversight; exchange of tech. information

BOARD FOR INTERNATIONAL BROADCASTING

TRAVEL - FY 1982

TRAVELER	TITLE	DATES OF TRAVEL	ITINERARY	CLASS	COST (Actual)*	PURPOSE	RELATION OF TRIP TO AGENCY MISSION
CONSULTANT TRAVEL:							
DOMESTIC (con't):							
2. Jacobs, George	Engineer Tech. Adviser	1/27-29/82	Washington, DC-New York, NY-Washington, DC	coach	$ 182*	Tech. discussions w/G. Ley, Director Gen.-Israeli Ministry of Communication	Exchange of technical information
3. Capalbo, George	Engineering Adviser	4/22/82	Washington, DC-Boston, Mass.	coach	240*	Confer w/RFE/RL staff re Munich studios	Technical oversight
4. Jacobs, George	Engineer Tech. Adviser	6/9-12/82	Washington, DC-New York, NY Washington, DC	coach	381*	Tech. discussions w/RFE/RL staff; inspect studio facilities.	Technical oversight
5. Jacobs, George	Engineer Tech. Adviser	8/15-17/82	Washington, DC-San Antonio, Austin, TX-Washington, DC	coach	539*	Tech. discussions w/Air Force Electronic Warfare Center; confer w/former BIB Chairman.	Exchange of technical ideas/information
6. Jacobs, George	Engineer Tech. Adviser	8/23-24/82	Washington, DC-New York, NY-Washington, DC	coach	293*	Tech. discussions w/S. Leinwoll re NY studio facilities.	Technical oversight
6	TOTAL - CONSULTANT - DOMESTIC TRAVEL	....			$ 2,062*		
OVERSEAS:							
1. Capalbo, George	Engineering Adviser	3/13-21/82	Boston, Mass-Munich, Germany-Boston, Mass.	coach	$ 1,926*	Inspect/evaluate RFE/RL studio facilities.	Technical oversight
2. Jacobs, George	Engineer Tech. Adviser	6/23-7/5/82	Washington, DC-Frankfurt, Cologne, Munich, Germany-Vienna, Austria-Geneva, Switz.-Washington, DC	ambassador	3,465*	Confer w/Embassy officials re strategy for int'l telecomm. planning/technical coordination.	Exchange of technical information
3. Bailey, George	Management/ Programming	8/17-20/82	Paris, France-London, United Kingdom-Paris, France	coach	456*	Tech. discussions w/B. Wattenberg re RFE/RL overall mgt. & programming.	Technical oversight
4. Bailey, George	Management/ Programming	8/24-30/82	Paris, France-New York, NY-Washington, DC-Boston, Mass.-Springfield, VT-Boston, Mass.-Paris, France	coach	2,457*	Consult w/BIB Chairman re matters pertaining to RFE/RL broadcast operations, mgt. & int'l network (domestic/overseas).	Programmatic oversight

BOARD FOR INTERNATIONAL BROADCASTING

TRAVEL - FY 1982

TRAVELER	TITLE	DATES OF TRAVEL	ITINERARY	CLASS	COST (Actual)*	PURPOSE	RELATION OF TRIP TO AGENCY MISSION
4	TOTAL - CONSULTANT - OVERSEAS TRAVEL				$ 8,304*		
10	TOTAL - CONSULTANT TRAVEL - FY 1982				$ 10,366*		
65	GRAND TOTAL - TRAVEL - FY 1982				$ 51,796*		

BOARD FOR INTERNATIONAL BROADCASTING

TRAVEL - FY 1983

TRAVELER	TITLE	DATES OF TRAVEL	ITINERARY	CLASS	COST (Actual)*	PURPOSE	RELATION OF TRIP TO AGENCY MISSION
BOARD MEMBER TRAVEL:							
DOMESTIC:							
1. Shakespeare, Frank	Chairman	10/6-7/82	Greenwich, Conn.-Washington, DC-Greenwich, Conn.	coach	$ 290	Confer with BIB-RFE/RL staff re the FY 1983 Budget Request.	Financial oversight
2. Ablard, Charles D.	Member	10/20-25/82	Washington, DC-Montgomery, Ala.-New York, NY-Washington, DC	coach	455*	Lecture at "Air Univ." on RFE/RL in Montgomery; confer with BIB Chairman in NY.	Programmatic oversight Exchange of ideas
3. Shakespeare, Frank	Chairman	10/25/82	New York, NY-Washington, DC-New York, NY	coach	190	Discuss int'l broadcasting objectives & goals for FY 1983 with BIB staff	Programmatic oversight Exchange of informatio
4. Shakespeare, Frank	Chairman	11/2-4/82	New York, NY-Washington, DC-New York, NY	coach	350	Discuss FY 1983 BIB Budget with Congressional committee staff.	Support Budget Request
5. Shakespeare, Frank	Chairman	11/29-30/82	Greenwich, Conn.-Washington, DC-Greenwich, Conn.	coach	240	Confer with RFE/RL staff re FY 1984 Budget Proposal & FY 1983 Appeal.	Financial oversight
6. Shakespeare, Frank	Chairman	12/1-3/82	Greenwich, Conn.-Washington, DC-Greenwich, Conn.	coach	380	Confer with RFE/RL & BIB staffs re FY 1984 Budget request & FY 1983 Budget Appeal.	Financial oversight
7. Shakespeare, Frank	Chairman	12/6-8/82	Greenwich, Conn.-Washington, DC-Greenwich, Conn.	coach	405	Attend a Congressional Hearing on the BIB FY 1983 Budget Amendment.	Support Budget Request
8. Shakespeare, Frank	Chairman	12/9/82	Greenwich, Conn.-Washington, DC-Greenwich, Conn.	coach	230	Discuss with BIB-RFE/RL staff status of FY 1983 Budget Amendment.	Financial oversight
9. Shakespeare, Frank	Chairman	12/10/83	Greenwich, Conn.-Washington, DC-Greenwich, Conn.	coach	230	Meet with Congressmen re BIB FY 1983 Budget Amendment; State Mtg.	Support Budget Request
10. Shakespeare, Frank	Chairman	12/15/83	Greenwich, Conn.-Washington, DC-Greenwich, Conn.	coach	330	Discuss BIB FY 1983 Budget Amendment with Congressmen and staff.	Support Budget Request

BOARD FOR INTERNATIONAL BROADCASTING

TRAVEL - FY 1983

	TRAVELER	TITLE	DATES OF TRAVEL	ITINERARY	CLASS	COST (Actual)*	PURPOSE	RELATION OF TRIP TO AGENCY MISSION
	BOARD MEMBER TRAVEL (con't):							
	DOMESTIC:							
11.	Shakespeare, Frank	Chairman	12/16-17/82	Greenwich, Conn.-Washington, DC-Greenwich, Conn.	coach	$ 330	Confer with Congressmen re the FY 1983 Budget Supplemental.	Support Budget Request
12.	Shakespeare, Frank	Chairman	1/6/83	Greenwich, Conn.-Washington, DC-Greenwich, Conn.	coach	230	Discuss programming with RFE/RL staff.	Programmatic oversight
13.	Shakespeare, Frank	Chairman	1/11-12/83	Greenwich, Conn.-Washington, DC-Greenwich, Conn.	coach	270	Confer with BIB-RFE/RL staffs re the FY 1984 Budget.	Financial oversight
14.	Shakespeare, Frank	Chairman	2/7-8/83	Greenwich, Conn.-Washington, DC-Greenwich, Conn.	coach	240	Testify before House Approp. Subcommittee on FY 1984 Budget & and FY 1983 Supplemental.	Support Budget Request
15.	Shakespeare, Frank	Chairman	2/15-16/83	Greenwich, Conn.-Washington, DC-Greenwich, Conn.	coach	250	Discuss FY 1984 Budget with BIB and RFE/RL staffs.	Financial oversight
15	.... TOTAL - BOARD MEMBER - DOMESTIC TRAVEL					$ 4,420		
	OVERSEAS:							
1.	Shakespeare, Frank	Chairman	11/5-13/82	Greenwich, Conn.-Munich, Germany-Greenwich, Conn.	coach	$ 2,480	Confer with RFE/RL staff re overall mgt. and programming goals.	Programmatic/Technical oversight
2.	Shakespeare, Frank	Chairman	1/15-20/83	Greenwich, Conn.-Munich, Germany-Greenwich, Conn.	coach	2,010	Discuss FY 1983 RFE/RL Programming objectives.	Programmatic oversight
3.	Wattenberg, Ben J.	Member	2/18-23/83	Washington, DC-Munich, Germany-Washington, DC	coach	1,762	Attend West European Advisory Committee.	Exchange of programmatic information
4.	Shakespeare, Frank	Chairman	2/18-25/83	Greenwich, Conn-Munich, Germany-London, United Kingdom-Greenwich, Conn.	clipper	2,360	Attend West European Advisory Comm. in Munich; discuss prog. matters with BBC External Serv. staff in London.	Exchange of programmatic information
4	.....................TOTAL - BOARD MEMBER - OVERSEAS TRAVEL					$ 8,612		
19	.....................TOTAL - BOARD MEMBER TRAVEL - FY 1983 (to date)					$ 13,032		

BOARD FOR INTERNATIONAL BROADCASTING

TRAVEL - FY 1983

TRAVELLER	TITLE	DATES OF TRAVEL	ITINERARY	CLASS	COST (Actual)*	PURPOSE	RELATION OF TRIP TO AGENCY MISSION
BOARD STAFF TRAVEL:							
DOMESTIC:							
1. Critchlow, James	Planning & Research Ofcr.	10/27-11/5/82	Washington,DC-Santa Barbara, Los Angeles, San Francisco, CA-Washington, DC	coach	$ 1,075	Attend Conf. on radio & nationalism in Soviet Union/E. Europe at UCLA UC (Berkeley), & Stanford; confer w/Soviet specialists at UC(Berkeley).	Exchange of programmatic ideas/information
2. Roberts, Walter R.	Executive Director	11/1/82	Washington, DC-New York, NY-Washington, DC	coach	191*	Attend Seminar at Museum of Broadcasting's 50th Anniv. of BBC.	Exchange of programmatic ideas/information
3. Roberts, Walter R.	Executive Director	11/30-12/1/82	Washington, DC-Austin, TX-Washington, DC	coach	380*	Deliver speech & attend a seminar in School of Communication, Univ. of TX.	Exchange of programmatic ideas/information
4. Roberts, Walter R.	Executive Director	12/12-13/82	Washington, DC-New York, NY Washington, DC	coach	275*	Confer with BIB Chairman re status of FY 1984/FY 1983 Budgets.	Financial oversight
5. Roberts, Walter R.	Executive Director	1/14-21/83	Washington, DC-San Diego, Los Angeles, CA-Washington, DC	coach	1,250	Attend an operational propagation seminar in San Diego.	Exchange of technical & programmatic informatio
5 .... TOTAL - BOARD STAFF - DOMESTIC TRAVEL					$ 3,171		
OVERSEAS:							
1. Roberts, Walter R.	Executive Director	11/11-20/82	Washington, DC-London, United Kingdom-Washington, DC	clipper	$ 2,056*	Attend 20th Ann'l North Atlantic Assembly.	Exchange of programmati information
2. Critchlow, James	Planning & Research Ofcr.	2/9-3/7/83	Washington, DC-Paris, France-Tel Aviv, Israel-Istanbul, Turkey-Madrid, Spain-Washington, DC	clipper	5,554	Confer with RFE/RL Audience Research staff in Paris; attend briefing on RFE/RL transmitters in Madrid; attend academic mtgs./lectures on Soviet Muslims in Tel Aviv and Istanbul.	Technical/Programmatic oversight; exchange of information

BOARD FOR INTERNATIONAL BROADCASTING

TRAVEL - FY 1983

TRAVELER	TITLE	DATES OF TRAVEL	ITINERARY	CLASS	COST (Actual)*	PURPOSE	RELATION OF TRIP TO AGENCY MISSION
BOARD STAFF TRAVEL:							
OVERSEAS:							
3. Roberts, Walter R.	Executive Director	2/17-24/83	Washington, DC-Geneva, Switzerland-Vienna. Austria-London, United Kingdom-Washington,DC	clipper	$ 2,450	Attend WARC-HFBC in Geneva; attend mtg. of Foreign Policy Assoc. in Vienna; confer w/PAO of Am. Embassy in London.	Programmatic oversight; exchange of technical information
3 .... TOTAL - BOARD STAFF -OVERSEAS TRAVEL					$ 10,060		
8 .... TOTAL - BOARD STAFF TRAVEL - FY 1983 (to date)					$ 13,231		
CONSULTANT TRAVEL:							
DOMESTIC:							
1. Jacobs, George	Engineer-Tech. Adviser	12/1-5/82	Washington, DC-Phila., Penn.-New York,NY-Washington, DC	coach	$ 487*	Confer w/J. Frost, Editor, World Radio TV Handbook re int'l broadcasting; discuss US positions for WARC-HFBC with S. Leinwoll, RFE/RL, Inc.	Exchange of technical information
2. Jacobs, George	Engineer-Tech. Adviser	1/11-14/83	Washington, DC-New York, NY-Washington, DC	coach	404*	Attend a Frequency Coordination Mtg. by RFE/RL, Inc.	Programmatic oversight
3. Jacobs, George	Engineer-Tech. Adviser	1/16-22/83	Washington, DC-San Diego, CA-Austin, TX-Washington, DC	coach	1,100	Attend Operational Propagation Demo. San Diego; attend radio propagation mtg. in Austin.	Exchange of technical information
4. Jacobs, George	Engineer-Tech. Adviser	2/7-8/82	Washington, DC-New York, NY-Washington, DC	coach	324*	Confer w/S. Leinwoll, RFE/RL US positions on WARC-HFBC; discuss Advanced Prophet Committee Prog.w/RFE/RL staff.	Programmatic oversight
4 ....TOTAL - CONSULTANT - DOMESTIC TRAVEL					$ 2,315		
OVERSEAS:							
1. Pipes, Richard E.	Member-NSC	10/10-14/82	Four days' per diem in Munich, Germany	N/A	$ 326*	Confer with RFE/RL staff re int'l broadcasting objectives.	Programmatic oversight

BOARD FOR INTERNATIONAL BROADCASTING

TRAVEL - FY 1983

TRAVELER	TITLE	DATES OF TRAVEL	ITINERARY	CLASS	COST (Actual)*	PURPOSE	RELATION OF TRIP TO AGENCY MISSION
CONSULTANT TRAVEL:							
OVERSEAS:							
2. Jacobs, George	Engineer - Tech. Adviser	2/15-27/83	Washington, DC-Geneva, Switz.-Munich, Germany-Vienna, Austria-Washington, DC	clipper	$ 3,585	Tech. Preparation Mtg. on WARC-HFBC in Geneva; tech. discussions in Munich w/RFE/RL VP; observe RFE/RL reception at tech. monitoring post.	Technical/Programmatic oversight
2 ....TOTAL - CONSULTANT - OVERSEAS TRAVEL					$ 3,911		
6 ....TOTAL - CONSULTANT TRAVEL - FY 1983 (to date)					$ 6,226		
33 ....GRAND TOTAL - TRAVEL - FY 1983 (to date)					$ 32,489		

QUESTION: Has the BIB engineering staff position been filled? If not, please explain how the functions of the position are being carried out? If you are using a consultant, please provide a detailed breakdown of the cost of employing a consultant for the period fiscal year 1982 and fiscal year 1983 through February 1983.

ANSWER: Former BIB Director of Engineering George Jacobs has served as the BIB Technical Adviser since his retirement on August 23, 1980.

Payments made to George Jacobs, former Board for International Broadcasting (BIB) Director of Engineering, for the period fiscal year 1982 and fiscal year 1983 through February 1983:

FY 1982

Month	Hours	Rate	Amount
October 1981	114	$24.09	$ 2,746.26
November 1981	52	"	1,252.68
December 1981	86	"	2,071.74
January 1982	160	28.13	4,500.80
February 1982	112	"	3,150.56
March 1982	120	"	3,375.60
April 1982	108	"	3,038.04
May 1982	100	"	2,813.00
June 1982	184	"	5,175.92
July 1982	128	"	3,600.64
August 1982	124	"	3,488.12
September 1982	44	"	1,237.72

FY 1983
(through February 1983)

October 1982	80	$28.13	$ 2,250.40
November 1982	184	"	5,175.92
December 1982	120	"	3,375.60
" "	64	31.49	2,015.36
January 1983	168	32.30	5,426.40
February 1983	172	"	5,555.60

QUESTION: In 1982, RFE/RL had a series of changes in its top management. The positions of president, senior vice-president, and director of Radio Liberty were filled from outside of RFE/RL. Are the salaries, benefits and allowances paid to these individuals comparable to those paid their predecessors? Would you explain the difference, if any?

ANSWER: The following statistics address this question:

	Newly appointed	Former
	President	President
Salary	$ 95,000	$ 58,500
Post Allowance	10,000	5,559
Presidential Allowance	15,000	10,000
Contribution to Tax Deferred Annuity	19,000	3,000
Housing Rent and Utility Costs	26,500	14,013

	Senior Vice President	Executive Vice President
Salary	$ 67,200*	$57,500
Post Allowance	4,194	5,640
Housing Rent and Utility Costs	17,100	10,997

	Director of Radio Liberty	Director of Radio Liberty
Salary	$ 63,800**	$50,112
Post Allowance	5,541	7,006
Housing Rent and Utility Costs	13,092	11,116

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* New Senior Executive Service payscale-previously $58,500

** New General Schedule payscale-previously $57,500

QUESTION: Does RFE/RL have a graded position and salary structure for its top management? For the record, please provide a detailed comparison of salaries, benefits and allowances actually paid to the top management of RFE/RL with the salaries, benefits and allowances that would be paid to equivalent U. S. Government employees.

ANSWER: Following is the detailed comparison of RFE/RL top management and U.S. Government salaries, benefits and allowances as requested by the Subcommittee:

		RFE/RL			U.S. Government		
Position	Grade Step	Salary	Post Allowance	Housing	Salary	Post Allowance*	Housing
V.P. and Dir.Eng.	16/1	$56,945	$5,922	$13,172	$56,945	—	$11,100
Dir.,Administration	16/4	62,639	5,703	10,236	62,639	—	11,100
Director RFED	16/5	63,800	5,949	11,184	63,800	—	11,840
Director, Central News	15/9	63,115	5,010	7,625	63,115	—	11,100
Dir.,Personnel	15/4	53,407	6,438	9,760	53,407	—	11,840
Dir.,Public Affairs	15/9	63,115	5,238	8,792	63,115	—	11,100
Dir.,Pol. B'cast Svc.	15/2	50,171	6,462	8,654	50,171	—	11,100
Prog. Mgr., Baltic Svc.	14/4	45,402	6,294	7,057	45,402	—	11,100
Dir. Gen'l Svcs.	15/7	58,261	5,100	9,118	58,261	—	11,100

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* With regard to post allowance, in making comparisons with State Department allowances it should be noted that RFE/RL employees, as cited in a U.S. General Accounting Office report of two years ago, are not entitled to use the U.S. commissaries and post exchanges to purchase food and clothing or to obtain such services such as medical, dental, and automobile gasoline and repairs.

QUESTION: What opportunities are available for RFE/RL employees to move into key management positions?

ANSWER: Opportunities are made available for RFE/RL employees to move into key management positions. For example, the Vice President for Engineering began his career with RFE/RL several years ago in the capacity of resident engineer in Pals and then in Lampertheim; later he became the technical representative in the RFE/RL Washington office and recently assumed the Vice President for Engineering position made vacant by the retirement of his predecessor. The present Director of RFED moved up through the ranks, as did the Treasurer and Comptroller, Director of Administration and Director of Central News Division. In general, all vacant positions are posted on the Munich Broadcast Center bulletin board, and all interested parties may apply for these jobs before any outside candidates are considered for employment.

QUESTION: In your supplemental request you state that a number of senior employees retiring before the age 65 are entitled to severance benefits averaging $47,000. Are these employees entitled to severance pay if they retire for personal reasons? Are these forced retirements? Are retirement benefits reduced? Please provide for the record a breakdown of employees (identity not important) retiring before age 65 showing the age, years of service, position, amount of severance payment and reason for departure, if known.

ANSWER: According to the provisions of the RFE/RL Mantel Tariff Agreement, employees who are either over age 50 or who have worked 15 years are entitled to severance payments. As experience has proved, a number of employees elect to retire before age 65. The following schedule covers the 21 early retirements to date in FY 1983:

Position	Age	Years of Service	Amount of Severance
1. General Services Director	62	24	$ 79,500
2. Senior Monitor	55	31	39,100
3. Assistant Director Hungarian Service	61	32	61,600
4. Chief Monitor	62	32	52,400
5. Artistic Supervisor	61	32	42,100
6. Pension Assistant	57	29	34,700
7. Senior Editor	49	20	39,400
8. Protective Services Supervisor	63	32	42,400
9. Senior Monitor	64	32	39,400
10. Chief Bookkeeper	63	32	40,400
11. Senior Secretary	62	32	30,100
12. Carpenter	61	30	29,800
13. Guard	62	15	8,200
14. Rigger Fitter	60	24	21,800
15. Warehouseman	64	26	24,100
16. Program Editor	63	31	59,700
17. SPV-Program Editor	64	32	67,600
18. Programming Assistant	60	32	36,800
19. Program Specialist A	63	20	32,800
20. Sound Librarian Archives	64	16	25,400
21. Program Specialist B	64	24	35,000

Several more employees may choose to take early retirement between now and the end of FY 1983. All employees listed above are retiring for personal reasons.

QUESTION: The Administration developed a long-range modernization program for RFE/RL and VOA. In November 1982 a supplemental request of $29.8 million was submitted to the Congress as the first phase in implementing the program. What is the total cost and time frame for implementation of this long-range modernization program?

ANSWER: The first phase of the Administration program to modernize RFE/RL and VOA involved $21.3 million and $22.7 million respectively for operational expenditures and for a limited number of capital improvements which could be speedily implemented plus approval in principle for new transmitters at various existing and new sites -- transmitters whose installation in nearly all cases requires negotiation with foreign governments. Once agreement has been reached, the Administration will submit appropriate funding requests. However, recognizing the difficulty of obtaining sites in certain areas (notably, the Middle East and Far East), the Administration program includes various "fall-back" options and other adjustments to be pursued if necessary. It is impossible at this time to estimate the actual dimensions and time frame of such a transmitter expansion program -- or how that program might be modified in the light of the ongoing comprehensive interagency study of jamming and anti-jamming techniques. The Congress will be kept informed on a case-to-case basis.

QUESTION: The Munich headquarters reverts to the Barvarian administrative authority in 1987. What effect will this have on implementing this program? Do you have assurance of continued use of the facility after 1987?

ANSWER: The lease on the RFE/RL headquarters building expires in May 1987. RFE/RL owns the building, and local governmental authorities own the real property. The contract contains no explicit provision regarding an extension or renewal of the lease upon expiration. Past experiences with the Bavarian Government, and in particular with the agency which administers the property, make it reasonable to expect a continuation of the existing relationship as long as the present overall political situation does not undergo radical changes. It is our intention to use the opportunity of introducing the new top management of the Radios to the appropriate Bavarian officials to begin discussions now of a new lease extension.

QUESTION: The National Security Council's study that developed the modernization program recommended that new efforts be made to obtain a common site for RFE/RL and VOA to broadcast the Soviet Central Asia. What progress has been made to carry out this recommendation?

ANSWER: Appropriate diplomatic soundings are being made by the Department of State, thus far without definitive result.

QUESTION: The BIB budget request also includes requirements for RBC. The 1983 supplemental request will provide the authorization to establish RBC. If legislation for RBC is enacted, when will the first program be broadcast to Cuba?

ANSWER: It is the Administration's hope that Radio Marti may be able to go on the air with its first broadcasts to Cuba within 90 to 120 days of Congressional authorization and funding.

QUESTION: Have you identified the staffing needs and the people to fill the needs?

ANSWER: While staffing needs have been identified and incorporated into the budget submission, in the absence of authorizing legislation, no one has been considered for specific positions.

QUESTION: Will any of the 1983 supplemental construction funds be used to reimburse any agency for construction projects such as transmitter sites, studios? If so, please provide the details showing the agency, type of project cost and when constructed?

ANSWER: H.R. 5427, as reported out by the Senate Committee on Foreign Relations on September 15, 1982, authorized government agencies to sell or lease property, on a reimbursable basis, to the BIB for radio broadcasting to Cuba; however, the supplemental request does not assume that any of the construction funds would be used to reimburse any agency for construction projects, and there are no current plans to do so.

QUESTION: Are any of the funds being requested for BIB's oversight role?

ANSWER: No, none of the funds for Radio Marti are for the BIB's oversight role. However, when it marked up the authorizing legislation (H.R. 5427) for Radio Marti in the 97th Congress, the Committee on Foreign Relations earmarked $300,000 for carrying on BIB oversight of Radio Marti.

QUESTION: If RBC is authorized, will there be an increase in the BIB staff?

ANSWER: The Administration has not to date addressed this matter.

QUESTION: Will RBC operate under the same type of policy guidelines that have been established for RFE/RL?

ANSWER: Yes, RBC will operate under the same type of policy guidelines that have been established for RFE/RL.

QUESTION: Will RBC be broadcasting to Cuba at the same time that VOA broadcasts can be heard in Cuba?

ANSWER: It is planned that Radio Marti, like the VOA, will broadcast to Cuba during prime-time hours although Radio Marti will have a more extensive broadcast schedule.

The VOA at present utilizes the prime-time hours of 0600 to 0900 EST each morning and 1900 to 2200 EST each evening for a total of 5 1/2 hours daily. The supplemental request contemplates that Radio Marti will broadcast initially a total of 14 hours per day using some of the same prime-time hours to reach its target audiences.

The VOA broadcasts to the Soviet Union and Eastern Europe at many of the same times as RFE/RL.

QUESTION: How comparable are the estimated costs to operate RBC with those of VOA and RFE/RL?

ANSWER: It is the Administration's view that the estimated Radio Marti costs compare favorably with those of RFE/RL and the VOA, since the figures used in drafting the budget were drawn exclusively from estimates provided by the VOA and RFE/RL.

Questions Submitted by Senator Hollings

We have a copy of the Board's response to Senator Zorinsky's inquiry about the salary and other benefits being paid former Senator Buckley as President of RFE/RL. This is an interesting response in that it never mentions Mr. Buckley's salary.

QUESTION: What is Mr. Buckley's salary?

ANSWER: Mr. Buckley is receiving a base salary of $95,000 per year.

QUESTION: Was not the salary of Mr. Buckley's predecessor, Glenn Ferguson equal to a Federal Executive Level IV, or $67,200 a year?

ANSWER: Under Mr. Ferguson's contract he would have received, were he still employed, a salary of $67,200, at Executive Level IV, i.e. $27,800 less than Mr. Buckley.

QUESTION: Why was the salary of the President increased by nearly 50%?

ANSWER: At the time the Board considered the idea of offering the presidency to Mr. Buckley, it was the Board's sense that he would, in any event, be leaving Federal service to return to private law practice. Although there were no demands as such put forward by Mr. Buckley, it was the Board's sense that were the level of salary for that position not greater than Mr. Ferguson's the Board would stand the risk of not being able to secure Mr. Buckley's services.

QUESTION: We know of Mr. Buckley's service as U. S. Senator and with the Department of State. What managerial experience does he have to head up the operation of the Radios?

ANSWER: For seventeen years prior to his election to the U. S. Senate, Mr. Buckley served as an officer and director of the Catawba Corporation, a privately-owned firm providing a variety of services to a group of oil and gas exploration companies operating primarily outside the United States. In this capacity, he was actively engaged in business negotiations in a number of countries in such areas as Southeast Asia, Canada, Latin America, Europe and Australia. From 1977 to 1981, when appointed Under Secretary of State, Mr. Buckley was again active as a business consultant and corporate director. Because of the variegated nature of the RFE/RL president's role, partly public and partly executive in nature, the Board has also hired Jay Gildner, former USIA career minister, with extensive executive experience to assist Mr. Buckley in administrative duties.

QUESTION: The annual salary of our Ambassador to West Germany, Arthur Burns, is $69,800. He certainly is "a person of national and international stature and representation." Would you not agree that our Ambassador to West Germany is more valuable to the conduct of the U. S. Diplomatic Relations than the President of RFE/RL, so isn't it a little odd that the U. S. taxpayers are funding two positions in West Germany, but the lesser role is paid 50% more than the more important one?

ANSWER: The positions are by no means comparable. Several members of the Board have known Ambassador Burns for many years and agree that he is a man of rare distinction and great talent. Ambassadors are surely vital to the conduct of diplomatic relations, but RFE/RL is a unique and potent instrument of U. S. foreign policy -- a medium for (in the words of the BIB Act) "constructive dialogue with the peoples of Eastern Europe and the Union of Soviet Socialist Republics." With tens of millions of listeners in the area, the radio's impact on events has been repeatedly demonstrated; it requires highly responsible and sensitive management on a daily -- indeed, on an hourly -- basis. Moreover, while our ambassadors (and, for that matter, the director of the Voice of America) are subordinated to an elaborate hierarchy, the chief operating executive of RFE/RL in Munich bears direct responsibility for day-to-day program decisions, subject only to post hoc oversight by a part-time board of private citizens.

QUESTION: Mr. Shakespeare, do you consider the Board's travel budget to be tight?

ANSWER: I believe that the Board's current travel budget will be adequate to fund actual and projected

Board Member and staff travel during Fiscal Year 1983.

QUESTION: We have copies of the Board's response to the questions raised by the House Appropriations Committee. I notice that since Fiscal 1983 began on October 1, 1982 you (Mr. Shakespeare) have been to Washington many times, in fact, a total of 14 trips. During Fiscal 1982 you made 33 trips to Washington.

A. How many meetings did the Board hold during Fiscal Year 1982 and Fiscal Year 1983 to date?

B. How does Mr. Shakespeare's travel compare to Mr. Gronouski's travel to Washington during his last year as Chairman?

ANSWER: A. The Board held two meetings during fiscal Year 1982 and has held one meeting to date during Fiscal Year 1983.

B. Ambassador Gronouski, who was and is a professor at the University of Texas in Austin, came to Washington 27 times during his last 15 months as Chairman. Mr. Shakespeare has made 47 such trips since January 1982.

QUESTION: The information we have indicates that on several occasions Mr. Shakespeare made two round trips between New York and Washington within the same week. We find individual trips on August 25, and 27, August 30 and 31; September 20 - 21, followed by another between September 24 - 25; December 6 - 8, followed by round trips on December 9th and December 10th; and December 15th, followed by a 2-day trip on December 16th and 17th. Why can't this travel be scheduled to avoid the cost of all the plane trips?

ANSWER: Mr. Shakespeare resides in Greenwich, Connecticut. He is President of RKO General, Inc. with offices in New York City. He also actively participates in various civic and foreign-policy organizations in New York as well as Washington. His trips to Washington during this period were largely (although not exclusively) devoted to meetings with high officials of the Executive Branch and leading members of Congress concerning the Board's efforts to obtain a vital supplemental appropriation for fiscal year 1983. Such meetings were often arranged -- but also postponed or cancelled -- on an ad hoc basis; such was particularly true during the post-election Congressional session, when the Administration request for an FY 83 budget amendment was under consideration.

It should also be recalled that new legislation went into effect last August endowing the Board with managerial as well as oversight responsibilities, including the responsibility for appointing and fixing the compensation of top RFE/RL managerial officers; last August and September, Mr. Shakespeare (and the other Board members, all of whom reside in Washington) were making and implementing major decisions concerning former and future radio executives whose own itineraries also had to be taken into consideration.

FEDERAL TRADE COMMISSION

STATEMENT OF JAMES C. MILLER III, CHAIRMAN

ACCOMPANIED BY:

BRUCE YANDLE, EXECUTIVE DIRECTOR
JOHN H. CARLEY, GENERAL COUNSEL
TIMOTHY J. MURIS, DIRECTOR, BUREAU OF CONSUMER PROTECTION
THOMAS J. CAMPBELL, DIRECTOR, BUREAU OF COMPETITION
WENDY LEE GRAMM, DIRECTOR, BUREAU OF ECONOMICS
JAMES A. WILLIAMS, DEPUTY EXECUTIVE DIRECTOR FOR MANAGEMENT
FREDERICK J. ZIRKEL, DIRECTOR, DIVISION OF BUDGET AND FINANCE

BUDGET REQUEST

Senator LAXALT. We will be in order.

Our next request is that of the Federal Trade Commission. The Commission's request is for $59,457,000, but I understand that figure may have to be adjusted to reflect the agreement on a new regional office structure.

Appearing on behalf of the Commission is Chairman James C. Miller III. Glad to have you here. Accompanying him are Bruce Yandle, Executive Director; John H. Carley, General Counsel; Timothy J. Muris, Director of the Bureau of Consumer Protection; Thomas J. Campbell, Director of the Bureau of Competition; Wendy Lee Gramm, Director of the Bureau of Economics; James A. Williams, Deputy Executive Director for Management; and Frederick J. Zirkel, Director of the Division of Budget and Finance.

At the outset, I want to express my appreciation to you, Mr. Chairman, for your efforts to reach a compromise on the issue of the number and size of the Commission's regional offices. In addition, I want to commend Senator Rudman for his strong leadership on matters affecting the FTC, and for his willingness to work closely and cooperatively with me and with Chairman Miller.

PREPARED STATEMENT

Commissioner Pertschuk has requested his individual statement of the FTC budget for fiscal years 1983 and 1984 be submitted for the record and the subcommittee is very pleased to grant this request.

[The prepared statement of Commissioner Pertschuk follows:]

PREPARED STATEMENT OF MICHAEL PERTSCHUK, COMMISSIONER, FEDERAL TRADE COMMISSION

I am submitting this statment in connection with the subcommittee's March 2, 1983 hearing on proposed fiscal year 1984 appropriations for the Federal Trade

Commission. I respectfully request that this statement be entered into the record of the hearing.

Mr. Chairman, I want to take this opportunity to commend you and the subcommittee for your determination to support the continuation of the FTC's 10 regional offices. This action ensures that the regional office structure, which has been such an instrumental and cost-effective part of the Commission's law enforcement program, will be preserved. As a member of the Commission, I will work diligently to see that the FTC maintains the strongest regional enforcement program possible within the guidelines you have provided.

Concerning Commission funding for fiscal year 1984, I have stated previously and continue to believe that the $59.5 million appropriation proposed by OMB is inadequate to permit the agency to carry out its statutory law enforcement responsibilities in the manner Congress intends. In addition it is important to remember that even as all of the Commission's regional offices are being maintained, the total size of the regional workforce has been reduced by over 55 percent in the past 2 years, and would have to be reduced still further at the proposed OMB funding level. I therefore strongly hope that the subcommittee, and eventually the Congress, will approve a higher appropriation for the FTC in fiscal year 1984 that will enable the agency to achieve adequate regional enforcement staff levels and effectively carry out its important responsibilities for enforcing the Nation's antitrust and consumer protection laws.

Once again, let me commend you for your support for stong law enforcement at the Federal Trade Commission. I look forward to our continued cooperation.

SUMMARY STATEMENT

Senator LAXALT. Mr. Chairman, we will be pleased to hear your statement with regard to your request.

Mr. MILLER. Mr. Chairman and Senator Specter, we are very glad to be here to address the 1984 budget, and I would like to summarize it briefly.

I think at a time when all agencies need to tighten their belts, the FTC has done its part and met this challenge. Our budget request for fiscal year 1984 is lower than the request for 1983.

Senator LAXALT. We commend you for that too, by the way.

Mr. MILLER. Thank you.

I think by giving more attention to controlling cost and more reallocation of resources, we can do the job.

Specifically, as you point out, we asked for $59.5 million for fiscal 1984, which includes 1,199 workyears. That will be divided as follows:

In maintaining competition, we have $28,269,000 and 560 workyears for about 47.5 percent of the budget;

The consumer protection mission is $27,127,000 and 553 workyears, approximately 45.6 percent of our budget; and

The economic activities, $4,061,000 and 86 workyears, for about 6.8 percent of our budget.

REGIONAL OFFICES

Now, the other main thing that I would wish to address, as you mentioned, Mr. Chairman, we have worked with you and your subcommittee and with the subcommittee in the House to resolve a very controversial matter and that is the one of the regional offices.

We have implemented a plan consistent with the guidance that you have given us. Rather than having 150 workyears for fiscal year 1983 in the regional offices, we will go from the present level of 222 to 169. This represents a decrease of 53 workyears in the regional offices from the level that we now have. Each office will be maintained at a work level of 18 persons and we feel that by doing our work as carefully as we can possibly do it, being as efficient as we possibly can be in those regional offices, we can deliver to the taxpayers of the region a structure that will be effective.

As you know, it was not exactly the proposal I had in mind, perhaps not the proposals members of the committee might have individually felt best, but I think it is a reasonable compromise and we are moving forward on that. I assure you that I will work with vigor to make sure that every effort is taken to assure that the regional office effort is effective and in the public interest.

FUNDING SHORTFALL

Senator **Laxalt**. Before you get off that, Mr. Chairman, obviously there will be a shortfall because of the realignment by virtue of the compromise we have been working out for 1983.

Mr. **Miller**. Yes, sir. The difference between what we would have spent on regional offices for the time period of fiscal 1983, if the assumption is the 6-office regional structure that we originally had approved, the difference between that and what really has taken place, having kept the 10-office regional structure and not reduced the workyear levels and going to the 69 workyear level, will be a shortfall. The specific shortfall is $1.3 million.

As you know, on top of that $1.3 million absorption is the pay increase. That would put us $2.6 million over. We have implemented some additional cost-cutting programs. Specifically we have cut the travel budget by about 25 percent and we have cut our contract budget about 10 percent. So we have been able to save about $600,000 which would mean, I think, a realistic shortfall in the neighborhood of $2 million for fiscal 1983.

Senator **Laxalt**. I would be inclined, Mr. Chairman, to support this supplemental and will so advise the other members of the subcommittee. I have no reason to feel they won't go along.

Mr. **Miller**. Thank you, Mr. Chairman.

We did have an unusually low attrition rate this year. That has made it very difficult for us to absorb that $1.3 million portion of the pay increase on our own.

Senator **Laxalt**. Tell me, each of you now, in view of these allocations of workyears, are you satisfied the money that we are talking about will do the job? We certainly don't want to ride this point if you are going to short circuit the work at an important agency because you are going to be deficient fundwise. Are you all satisfied you can do the job within these numbers?

Mr. **Yandle**. Yes.

Senator **Laxalt**. All of you?

Mr. **Miller**. Yes.

REGIONAL OFFICE FUNDING IN 1984

Senator **Laxalt**. Do we have numbers concerning the additional resources we are going to need by virtue of the allocation of regional offices?

Mr. **Miller**. That is a very important point, Mr. Chairman. In our proposal for fiscal 1984 it will be presumed that we will have the regional office structure that we had advanced for 1983; namely six offices and lower personnel—in fact, we propose 137 workyears in the regional offices for fiscal 1984. But the compromise that we agreed to, Mr. Chairman, would mean that more resources will be required for the Commission to maintain that level of regional offices in fiscal 1984. Our figures indicate that the difference in funding levels would be in the order of $2.4 million.

SPACE RENT INCREASES

Senator LAXALT. Now, I am concerned about large increases in the standard level user charge, or rent, being proposed by the General Services Administration for FTC office space.

What is the size of the increase for the headquarters offices in Washington, D.C., and what impact will the proposed consolidation of offices into two buildings in Washington have on SLUC fees?

Mr. MILLER. Mr. Chairman, our rent would go up from approximately $3.6 million to $5.9 million, a difference of $2.3 million.

Senator LAXALT. Are we acquiring additional areas by reason of the change?

Mr. MILLER. No, sir.

Senator LAXALT. So there is no new net space?

Mr. MILLER. No. In fact, what we are trying to do—see, we are spread out in seven buildings in Washington. If we can consolidate in the headquarters building and one other building, I think there would be significant savings for the Commission. We appreciate any encouragement you can give to us on that.

Mr. ZIRKEL. I have a comment on that. Going from the $3.6 million to the $5.9 million in headquarters assumes consolidation of headquarters space and in that assumption we also assume that our overall square footage in that consolidation would be reduced, so the $2.3 million increase assumes that we will reduce our space requirements by some 17 percent. Thus the overall increase at headquarters is a little bit higher than just the $2.3 million increase.

Senator LAXALT. Where are you in negotiations with GSA on this?

Mr. MILLER. We have submitted a prospectus to GSA and I believe they are in the process of working on it.

Mr. YANDLE. And the regional director for our region in GSA is reviewing that prospectus.

Senator LAXALT. Are you pretty close to winding this up, subject to authorization?

Mr. YANDLE. Yes, sir. I think insofar as our providing information to GSA and their being satisfied with the prospectus and what we are talking about, that that part of the process is very close to completion.

Senator LAXALT. It seems to me, since you are spread all over town, if you consolidate this operation you will be picking up some dollars, obviously.

Mr. MILLER. What we are saying, if we are unable to consolidate, we would have to face a significant shortfall.

SUBMITTED QUESTIONS

Senator **Laxalt**. Senator Rudman expressed an interest in coming today, but I think we probably talked satisfactorily about the point of his concern. We will have some additional questions for you. We would like them returned as quickly as possible, and I assume other members will have questions for you as well.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR LAXALT

INTERNAL AUDIT STAFF

QUESTION: What is the size of your internal audit staff, and how many audits did it complete in FY 1982? What were some of the significant audit findings and/or reports issued in FY 1982?

ANSWER: In fiscal year 1982, audits were performed by both internal audit staff and an outside audit firm. Combined efforts amounted to $79,000 or the equivalent of 2 1/2 workyears. A total of 39 audits or internal reviews were completed including three A-76 reviews; 13 public participation audits; 19 vulnerability assessments; and 4 internal operations reviews or audits.

Following are the most significant results:

. The A-76 reviews were completed and are expected to result in a 3-year savings of approximately $430,000.

. Public participation audits were performed on approximately $200,000 in grants. Collections have been made on selected disallowances.

. In compliance with OMB Circular A-123 we are conducting vulnerability assessments to determine our internal control review priorities.

Corporate Mergers

QUESTION: Has there been an increase in corporate mergers in recent years, and does the FTC have a different policy toward mergers than in the past?

ANSWER: The net merger and acquisition announcements in 1982 totaled 2,346, down 2% from the 2,395 recorded in 1981. The total dollar value paid for all transactions providing a purchase price in 1982 of $53.8 billion, a 35% decline from the record breaking total of $82.6 billion in 1981. Dollar totals for 1980 and 1979 were $44.3 billion and $43.5 billion, respectively. These figures are based on information obtained from W. T. Grimm & Co.

Based on Hart-Scott-Rodino premerger notification information, in 1982 there were 1144 reported transactions, an increase of 5.6% from the 1083 reported in 1981.

On June 14, 1982, the FTC issued its "Statement of Federal Trade Commission Concerning Horizontal Mergers." In this Statement the Commission codified the existing policy towards horizontal mergers. There has been no change in policy since the issuance of this Statement.

Economic Incentive Remedies

QUESTION: FTC's overview statement refers to the plan to emphasize "the techniques of economic incentive remedies in place of "command and control" regulations, which are sometimes more detailed and burdensome." Please explain what is meant by "economic incentive remedies" and "command and control regulations".

ANSWER: "Economic incentives remedies" involve rule or order provisions that define a specific end result or level of performance that an industry member or respondent must meet. The incentive to meet this performance standard is provided by the Commission's ability to seek civil penalties if the standard is not met. "Command and control regulations" are rule or order provisions that not only define the desired end result, but also specify in detail the procedures that must be used to reach that result.

There are several advantages to using economic incentive remedies rather than command and control regulations. Because the costs of complying with Commission rules or orders are often borne by consumers, it is important that such compliance is achieved in the most cost-effective manner. An industry member or respondent is in the best position to know or discover the most cost-effective means of meeting a stated level of performance. Rule or order provisions that incorporate detailed procedures for how the desired result is to be achieved can prevent firms from taking advantage of new technologies or methods of production which would lessen the cost of compliance.

Finally, clearly defined performance standards are both easier to devise and easier to enforce than command and control regulations. Economic incentive remedies alleviate the need for continued modification of rules or orders to account for changed circumstances, such as new production techniques. It is only necessary to compare the proposed respondent's performance with the objective standard of performance established by the rule or order to determine whether a violation has occured.

AVERAGE SALARY CHANGE

QUESTION: The salaries and expenses personnel summary shows the average GS grade is 10.63 for 1983 and 1984; yet the average GS salary for 1984 is $32,592 or $130 less than the average of $32,722 for 1983. If the average GS grade remains constant from 1983 to 1984, how could the average pay go down?

ANSWER: Because the Commission is expected to drop in staff, its overall mix of grades can be expected to vary slightly between years. Average grades can still remain constant while grade mix and average salaries change. For example, an organization with 10 employees, consisting of 1 GS-5, 2 GS-7's, 3 GS-9's and 4 GS-11's, would have an average salary of $20,529 and an average grade of GS-9. If by year end this organization had lost 1 GS-5 and 2 GS-11's, the organizations' average grade would still be a GS-9 while the average salary would change to $20,415.

Anticompetitive Impact of Regulation

QUESTION: FTC's overview on maintaining competition refers to anticompetitive regulation, both public and private. Can you give some examples of existing regulations which are or may be anticompetitive? How does FTC propose to intervene to advocate free market solutions?

ANSWER: Regulations, whether public or private, may be of competitive concern if they create barriers to entry, lead to misallocation of resources, or are a source of monopoly power. While anticompetitive regulations are undesirable in any sector of the economy, they are of particular concern when they affect vital consumer interests such as health care or transportation. In the health care sector, examples of such regulations may include denial of hospital privileges to nontraditional providers of health care such as nurse midwives, restraints on the advertising of medical services, and certificate of need programs that require prior approval for construction or expansion of certain types of health facilities. In the transportation sector, competitive concerns may be raised by antitrust immunity for certain types of collective ratemaking and by state law restricting entry by auto dealers. In responding to the competitive concerns resulting from such regulations, the FTC can use an array of strategies that include initiation of antitrust proceedings, preparation of reports or economic studies, presentation of speeches or testimony, submission of agency comments to federal or state regulatory agencies, or intervention in regulatory proceedings. In choosing among these alternatives, the FTC's goal is to select the most appropriate method of responding to the particular competitive issues presented.

FINES AND PENALTIES

QUESTION: How much in fines and penalties was actually paid to FTC during fiscal years 1981 and 1982?

ANSWER: No funds were paid to the FTC. The U.S. Treasury, as the recipient of such fines and penalties, was paid $673,178.74 in fiscal year 1981 and $3,139,204.11 in 1982 for fines and penalties as a result of FTC actions.

Consumer Redress

QUESTION: What does FTC do, if anything, to assure that consumers receive redress when they suffer economic loss from practices that violate FTC rules and orders? Does FTC know how much consumers actually received? Is this actual data or an estimate?

ANSWER: The FTC brings Section 5(l) actions for order violations and Section 5(m) (1) (a) actions for rule violations. Included within the prayer for relief, are usually requests that the district court order redress for the economic loss suffered by consumers as a result of these violations. The redress provisions are fashioned or crafted to maximize the monetary redress, etc., provided according to the financial ability or capacity of the defendant to pay and to minimize the problems of notification, eligibility, actual payment and administrative costs inherent in such programs. The prime motivation is to place consumers in as close to the status quo as possible, to repay economic loss suffered, to make the consumer whole. In most instances, the monetary redress fund is not sufficient for full and complete repayment and pro rata refunds are made. Once the company, etc. is ordered to make redress, the FTC's Enforcement Division monitors these efforts and problem areas very closely to insure desired results are achieved.*

In FY 81 and 82, redress was obtained in the following cases in the amount specified: (see attachments)

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* Reports are made to the Commission, based on actual data, as to how much consumers actually received in each redress matter.

Fiscal Year 1981

Bureau of Consumer Protection

Docket Number	Name	Consumers	Redress	Date
D-9072	Aurora Chrysler/Plymouth	44	$ 8,930	5-31-81
C-3030	Bill Crouch Foreign, Inc.	104	10,329.76	4-22-81
C-3028	Fred Meyer, Inc.	8,000	49,000.	2-1-81
C-3014	Mid City Chevrolet	42	8,145.	6-17-81
C-3003	San Mar Laboratories	19	214.25	4-15-81
C-3015	S Klein, Inc.	877	9,967.	9-1-81
	Subtotal	9,086	$86,586.01	

Fiscal Year 1981

Bureau of Competition

Docket Number	Name	Consumers	Redress	Date
	Binney & Smith*		$1,000,000.00	
	Milton Bradley*		200,000.00	
	American Art Clay Company*		25,000.00	
	Subtotal		1,225,000.00	
Fiscal Year 1981	Grand Total	9,086	1,311,586.01	

*Antitrust cases — Funds to be distributed to the State Attorney Generals' Offices for use in the public schools, if approved by the Commission.

Fiscal Year 1982

Bureau of Consumer Protection

Docket Number	Name	Consumers	Redress	Date
C-2938	Australian Land Title Ltd.	1711	$ 164,266.38	6-30-82
D-9075	Bankers Life & Casualty Co.	3270	6,374,984.	2-26-82
D-9099	Bell & Howell Company	13,226	1,476,422.	3-15-82
C-2971	Fedders Corporation	424	227,000.	7-31-82
C-3068	Sperry Corporation**	243	10,351.	3-15-82
C-3090	Volkswagon of America***	630	600,000.	12-10-82
	Subtotal	19,504	8,853023.38	
	FY 81 Total	9,086	1,311,586.01	
	FY 82 Total	19,504	8,853,023.38	
	GRAND TOTAL	28, 590	10,164,609.39	

**Redress made in FY 81 and FY 82.

***Redress not completed

PROGRAM DECREASES

Question: Most mission programs are receiving marginal cuts across-the-board. Some, however, are due to experience disproportionately large reductions. Please explain why for the following programs, giving specific details:

1) market power matters
2) credit practices
3) mergers and joint ventures

Answer: In terms of workyears, the most meaningful measure of available resources, the Maintaining Competition mission overall loses 9.8% of FY 1983 direct mission resources in FY 1984. By comparison, the Mergers & Joint Ventures program loses 9.5% in the same period. Thus, the reduction in this large program, while relatively large in absolute terms, is not actually disproportionate.

The proposed reduction in the Market Power program, by contrast, is significant both in absolute and proportionate terms. The judgment which this reduction represents is based on a number of factors, including the relatively low yield for substantial past enforcement investments in this area, as well as a shift toward greater emphasis on market power as an important analytical element under other programs, such as Mergers & Joint Ventures, Horizontal Restraints, and Distributional Restraints. Notably, however, case generation efforts continue under this as well as the Mission's other programs, and we believe that sufficient resources will be available to pursue any promising investigative developments in this area.

When the FY84 budget was formulated last summer, the anticipated decrease in effort for the Credit Practices program from the then current FY83 congressional budget was proportionate to other Consumer Protection programs. As the FY83 operating program got underway, however, increased activity in the Credit Practices program prompted us to increase the resources for these programs. That increase in the FY83 operating budget is reflected in the FY83 column of the FY84 budget submission to Congress. Because we have not determined that this higher than anticipated activity will continue into FY84, we chose not to request a change to the earlier projection of FY84 resource requirements for this program at this time.

Revised Regional Office Structure

QUESTION: Please provide the Committee with a breakdown of workyears assigned to each program and mission for each of the regional offices, both currently and as proposed under the new management structure?

ANSWER: We have not attempted to budget workyears by individual regional office due to the great deal of uncertainty surrounding the final regional office structure. However, mission workyear allocations for individual offices under the new restructuring plan are now being developed. A comparison can be provided by overall mission totals between our original plan of 150 workyears for 1983 versus what is currently expected to occur. This in turn can be compared to the 169 workyear compromise plan totals for 1984.

	1983		1984
Mission	Six office structure	Ten office structure	Ten office structure
Maintaining Competition..	54	73	60
Consumer Protection......	96	129	109
Total.................	150	202	169

Space Rental

QUESTION: Your justification assumes the consolidation of your current six Washington area office locations into two Washington area office locations. Please detail your plans in this regard.

ANSWER: The headquarters staff of the Federal Trade Commission is currently split among seven widely separated office locations in Washington, D.C., including the main headquarters building. For several years, we have pursued, unsuccessfully, the consolidation of all satellite building office space into one, large facility with the objective of improving operations and reducing the waste of scarce agency resources.

Most recently, we have worked closely with real estate specialists in GSA to prepare a space consolidation prospectus which is designed to remedy the dispersion of agency activities and, at the same time, substantially reduce costs. Through consolidation, the FTC can reduce its overall headquarters space requirement from 344,000 square feet to 282,500 sq. ft., primarily by eliminating redundant support space such as libraries, copier and word processing centers, etc. Over a ten year period, GSA estimates that this reduction of approximately 61,500 sq. ft. will produce a savings in excess of $9 million. This magnitude of savings in rental costs to the government has been verified by an independent analysis conducted by members of the President's Private Sector Task Force.

Of course, these analyses, while accurately reflecting the savings to be achieved in direct rental payments, neglect to consider the very real, though less apparent, savings to be achieved in the indirect costs of agency operations, including costly inter-building communications and transportation, less than optimum staff productivity due to physical separation, higher equipment rental costs than would be necessary after consolidation, and other factors. These indirect costs are conservatively estimated to total approximately $1.5 million annually over those achievable through consolidation.

Consolidation of the Federal Trade Commission's headquarters space is essential if we are to maintain a high standard of agency performance with declining resources.

SPACE RENT

QUESTION: The budget request reflects an increase for GSA space cost of 33% or $1.8 million, above that paid in fiscal year 1983. This is in light of declining space requirements associated with the reduction of 141 workyears in the FTC budget request. What is the average per square foot payment to GSA in 1983?

ANSWER: The average square foot payment to GSA for all Commission space is estimated to cost $9.95 in fiscal year 1983.

QUESTION: What is the projected average square foot payment to GSA in 1984? What are your additional expenses for GSA space requirements associated with maintaining the 1983 level of personnel in 1984?

ANSWER: The projected fiscal year 1984 average square foot payment to GSA is $18.29, an $8.34 increase per average square foot over fiscal 1983. The GSA space requirements for fiscal year 1984 would be approximately $8.3 million if the fiscal year 1983 level of personnel were maintained and the headquarters consolidation implemented. If the office space consolidation does not occur and our current staffing level is maintained, the estimated space payment would increase to $8.6 million.

QUESTION: Please provide for the record what additional costs would be associated with freezing the space rental charge at the 1983 rate and also what the costs would be at the higher rate charged in 1984 assumed by the budget?

ANSWER: If the 1984 space rental charges were frozen at 1983 rates with no changes in current space allocations the cost would be $5.4 million, a savings of $1.8 million from the projected 1984 level of $7.2 million. The $7.2 million estimate for 1984 assumes higher rates as well as reduced regional office and headquarters space requirements. If the 1984 rates were allowed to rise without space reductions in the regions and implementation of the Headquarters consolidation project, the 1984 space cost would be $8.6 million.

QUESTIONS SUBMITTED BY SENATOR HOLLINGS

REGIONAL OFFICES

QUESTION: The Commission has been facing a net FY 83 budget shortfall of about $2.8 million, of which $1.3 million is absorbed pay costs and $1.5 million is regional office costs. Despite your refusal to request a supplemental appropriation to cover these costs, the subcommittee seems prepared to grant you a $2 million supplemental over and beyond the $1.3 million supplemental requested by the OMB. Assuming you get the $2 million supplemental, which is at least equal to the unbudgeted regional office costs for FY 1983, please explain in specific detail why it is necessary for budget reasons to reduce the regional office workforce from the current 222 workyears to only 169?

ANSWER: Before implementing the regional office reorganization plan, the agency was facing a projected shortfall of $3.6 million. Of that amount, $1.3 million was associated with the agency's portion of the salary increase; and $1.3 million was associated with maintaining 10 offices with 222 full-time permanent employees for the full fiscal year, as opposed to ending the year, as the Commission had planned, with six offices and 150 workyears employed in the regions. The reorganization of the regional offices is expected to provide savings of $1.0 million. Other budget actions taken have generated $.6 million in savings. The balance of the shortfall is $2.0 million. The decision to reduce staff in regional offices followed intensive discussion and study by the Commission, and a vote to reduce agency resources employed in the regions. The decision by the Commission, by vote in October 1981 and reaffirmed in each of the subsequent quarterly budget sessions, reflected budget and management concerns. In brief, the Commission believes it can be more efficient by having a smaller relative commitment of resources in regional offices as opposed to Headquarters.

QUESTION: If immediate reductions-in-force are still necessary for budget reasons notwithstanding the expectation of a $2 million supplemental, please explain in specific detail why all of them must occur in the regional offices and none in Headquarters, as proposed in your plan?

ANSWER: In addition to the previous questions, the Commission is on record recommending a total of 150 workyears in the regional offices. The 169 workyears to be employed in FY 1983 and FY 1984 represents guidance provided by the Commission's Appropriations Committees, following hearings and detailed discussions with Committee members. The resulting balance of resources committed to regional operations and Headquarters should enable Bureau Directors to focus law enforcement actions more efficiently, and through improved management of their total missions, at Headquarters and in the regions to bring actions that provide larger net benefits to the public.

QUESTION: Under your regional office plan, the FTC's New York office will be immediately reduced from 39 to 18 workyears, a cut of 54%, and the Chicago office will be reduced from 34 to 18, a cut of 47%. Please explain in specific detail why these reductions are necessary, and how they will enhance the effective operation and enforcement capability of these offices. Please submit any management studies or analyses that you or your staff did which support the conclusion that these reductions will improve the management and cost-effectiveness of these offices.

ANSWER: The staffing levels in New York and Chicago will be 18 each, which is the maximum staff size in the regional system. (Eight offices will have 18 staff members) and is consistent with the overall commitment of 169 workyears to regional offices. The reductions in those staffs, as well as in other offices, follow Congressional guidance and are a part of actions taken to achieve budgetary goals. The complementary use of Headquarters staff with those in regional offices will enable the agency to achieve more effectively its overall mission.

QUESTION: Under your leadership, the size of the regional office workforce has shrunk from 382 to 169, a cut of 56%. At the same time the size of Headquarters staff has decreased considerably less. From both a budget and management standpoint, how do you justify this? Explain in specific detail how the halving of the regional office workforce will improve the law enforcement capability of the regional offices and the overall effectiveness of the agency.

ANSWER: The Commission has voted on several occasions to accept its part of the budget austerity that faces all government agencies. The decision by the Commission to reduce regional offices was accomplished first by vote in October 1981 and reaffirmed in subsequent budget sessions. This decision reflects budget and management concerns on how to operate effectively with reduced resources. The Commission undertook efforts to improve management and reduce costs. These efforts have increased staff accountability and consolidated overlapping programs. The goal of improving overall management of agency resources includes the development of approaches to law enforcement and consumer and business assistance that consolidates activities undertaken at Headquarters with those of regional offices. These changes have helped the Commission utilize more fully its resources and have strengthened the effectiveness of the Commission's law enforcement program.

QUESTION: Studies done by the Commission's Executive Director's office have concluded that a regional office must have at least 25 people to be cost-effective in performing its law enforcement and other important functions, such as complaint-handling, consumer education, and small business counseling. In Congressional testimony, you have stated that a regional office should have at least this many people to be productive. In light of your own acceptance of a 25-person model for a cost-effective regional office, please explain in specific detail how the 18-person (or fewer) offices which you are creating will be able to carry out their consumer protection/antitrust enforcement duties in an effective and viable manner.

ANSWER: Each of the 18-person offices will have 10 attorneys, 2 paralegals, and 6 clerical staff members. The size still effectively will enable the Commission to have each of its law enforcement missions represented in the regions. The regional offices will receive additional support from Headquarters when law enforcement activities originated in the regional offices require additional attorneys and other staff. Consumer and business education programs, organized and partly staffed by Headquarters personnel, will be used to supplement the staff activities in regional offices. The Commission is also continuing to develop its Headquarters computer facilities to process requests for information received from consumers throughout the agency's operations. Other steps will be taken to assure national coverage of the agency's activities.

QUESTION: Do you plan initially or later to reduce any regional office below the size of 18 workyears? If so, which ones and why? If a regional office drops below 18 workyears because of attrition or for any other reason, will it be permitted to hire personnel to get back up to the 18-workyear level?

ANSWER: Two offices will have smaller staffs than 18. The Denver office will have nine staff members; the Boston office will have 17 staff members. We expect to maintain these offices at the indicated levels. Should any office drop below the indicated employment levels, steps will be taken to bring them back to their original strength. The staffing plans are in accord with the Congressional guidance provided the Commission, and are based on budget and management considerations.

QUESTION: If the Commission appropriation for FY 1984 were restored to and frozen at its FY 1982 level of $68.6 million plus cost increases, would that permit you to restore each regional office to the minimum optimal level of 25 workyears? Please supply a precise estimate of the level of funding for FY 1984 that would be sufficient for this purpose.

ANSWER: If Congress provided a funding level of $68.6 million plus cost increases for fiscal 1984, there would be funds available to operate regional offices at a level of 25 workyears. The estimated cost of maintaining 10 regional offices with 25 workyears each at fiscal 1984 costs is $12.5 million. However, the Commission already has determined that 150 workyears in the regional offices would be sufficient to meet its program objectives; indeed this figure is lower than that now being implemented. Therefore, the Commission might well decide that, to produce the maximum benefits for consumers and competition, the additional funds should be allocated to programs and workyears at headquarters, rather than in the regions.

QUESTION: If the Commission receives adequate funding, will you take the necessary action to rebuild each office to this level, notwithstanding the current permissible floor of 18 workyears/office? If not, please explain why.

ANSWER: The answer to this question can only be provided by a full Commission vote should additional funds be appropriated.

OFFICIAL TRAVEL

QUESTION: You have stated that budget constraints which you support have required major reductions in regional office resources and overall agency operations, including travel. That being the case, please provide a list of official travel expenses to date incurred by you and each of your bureau directors. Please include the dates of travel, destination, purposes, and total costs for each trip made in whole or in part at agency expenses by each of you.

ANSWER: Official travel data for Fiscal Year 1983 incurred through 2/1/83 by the Chairman and each of the bureau directors follows:

Name: James C. Miller III (Chairman FTC)

Dates of Travel	Destination	Purpose	Amount
10/14/82- 10/14/82	Detroit, Michigan	To address Council on Employee Benefits; interviews with local TV station.	$346.00
10/21/82- 10/21/82	Chicago, Ill.	To address the Corporate Council Institute; interviews with local stations.	$258.00
10/23/82- 10/24/82	Atlanta, Ga.	To address the Oral and Maxillofacial Surgery Political Action Com.	$406.00
11/29/82- 12/3/82	St. Croix, Virgin Islands	To address the annual meeting of the National Assn. of Attorneys General in connection with the consumer protection and antitrust work of the FTC.	$1,041.15
11/21/82- 11/22/82	Chicago, Ill.	Taping of the Donahue Show; meetings with representatives of area government and corporate consumer affairs offices and visiting the Regional Office.	$313.00
12/14/82- 12/14/82	New York, N.Y.	To address the National Advertising Review Board.	$183.00
12/27/82- 12/27/82	Austin, Tx.	To swear in Commissioner George Douglas, U.S. District Court, Austin, Tx.	$597.95
1/6/83- 1/6/83	New York, N.Y.	To meet with representatives of the American Assn. of Advertising Agencies, Inc.	$105.00
1/15/83- 1/18/83	Acapulco, Mexico New Orleans, La.	To participate in the Section of Antitrust Law, American Bar Assn.; address the International Franchise Association in New Orleans.	$1,244.17
1/22/83- 1/26/83	Houston, Tx.	To address the National Assn. of Home Builders; visit Dallas Regional Office; meet with news media re: FTC Business.	$871.06

TOTAL........$5,365.33

Name: Thomas J. Campbell
(Director, Bureau of Competition)

Date of Travel	Destination	Purpose	Amount
10/5/82- 10/5/82	New York, N.Y.	To attend the Oppenheimer Forum on Corporate Restructuring, the Pierre Hotel, New York, N.Y.	$132.00
10/6/82- 10/6/82	New York, N.Y.	Followup meeting to Aspen Antitrust seminar	$132.00
10/21/82- 10/21/82	Chicago, Ill.	To accompany the Chairman to 21st Annual Corporate Counsel Institute; and participate in meetings with media reps. of Chicago-Sun Times & Ad age.	$273.00
11/3/82- 11/5/82	New York, N.Y. Chicago, Ill. Cleveland, Ohio	To attend meeting of the Council on For. Relations re: Extraterritoriality; to address the Chicago & Illinois State Bars Antitrust Sections; visit Chicago Regional Office and address Ohio State Bar.	$542.98
11/11/82- 11/12/82	Boston, Ma.	To participate in the 16th New England Antitrust Conference at Harvard Law School	$201.26
12/2/82- 12/3/82	Los Angeles, Ca.	To address Los Angeles County Bar Assn.	$281.60
1/12/83- 1/12/83	New York, N.Y.	To meet with Council on Foreign Relations discussion group on government-business relations.	$119.00
1/22/83- 1/30/83	Paris, France	Attend OECD Meeting in Paris*	$1,659.00
		TOTAL........	$3,340.84

* Department of State is to reimburse agency for this trip.

Name: Timothy J. Muris
(Director, Bureau of Consumer Protection)

Dates of Travel	Destination	Purpose	Amount
11/7/82- 11/9/82	Palm Beach, FL	To speak before the Association of National Advertisers' Annual Meeting	$537.00
11/14/82- 11/14/82	New Haven, CT	To attend the Yale Law School Fall Symposium	$153.00
12/14/82- 12/14/82	New York, N.Y.	To attend the National Advertising Review Board Conference.	$65.00
1/5/83- 1/7/83	New York, N.Y.	To participate in a two day seminar sponsored by the American Assn. of Advertising Agencies, Inc.	$223.78
1/11/83- 1/11/83	New York, N.Y.	To speak at the National Retail Merchants Assn. Annual Convention.	$126.00
1/25/83- 1/31/83	Denver, Co. San Diego, Ca.; San Francisco, Ca.	To speak at a conference sponsored by the Denver Advertising Federation, visit SFRO and address students and faculty of the University of San Diego on consumer protection.	$707.73
		TOTAL........	$1,812.51

Name: Robert D. Tollison
(Director, Bureau of Economics)

Dates of Travel	Destination	Purpose	Amount
11/10/82- 11/11/82	Atlanta, Ga.	To attend southern Economics Assn. Conference	$326.00
12/30/82- 1/3/83	Clemson, S.C.	To meet with consultants regarding FTC projects and matters.	$250.00
1/7/83- 1/7/83	Clemson, S.C.	Consult on official FTC projects and matters.	$125.00
1/10/83- 1/14/83	Washington, D.C.	Provide expert advice on offical FTC projects and matters	$396.25
1/31/83 2/4/83	Washington, D.C.	Provide expert advice on official FTC Projects and matters.	$287.25
		TOTAL.........	$1,384.50

Overall Antitrust Enforcement

QUESTION: Do you know how your enforcement record in the antitrust mission compares with previous administrations? In the four years under the Democratic chairman who preceded you there were 33 administrative complaints or 8 per year as reported by the Antitrust and Trade Regulation Reporter (see attached). You've only produced three administrative complaints in nearly a year and a half and you voted against one of them. What accounts for the slowdown?

ANSWER: As you have noted, to this date the Commission during my term has voted out a smaller absolute number of complaints than were issued under its previous leadership. In addition, we also voted to act on three important preliminary injunctions in merger matters. This change in numbers reflects an increased amount of care before deciding to pursue antitrust enforcement, rather than any faltering in our basic commitment to antitrust enforcement itself.

More complaints are not necessarily better. It is important that the complaints issued by the Commission are on firm legal ground and make economic sense. If they are issued without sufficient analysis, they can waste the taxpayers' money on ill-considered litigation in which the Commission may not prevail, and can even force changes in business practices that will be actively detrimental to the welfare of consumers. Indeed, it has been only a few years since the Commission was severely questioned by Congress on these very points.

The future of our antitrust enforcement, and the strength of my commitment to it, is best gauged by the numbers of new investigations that are in progress and leading toward possible complaints. During my first full year as Chairman we opened 159 initial investigations and 30 full-phase investigations, as compared with 81 initial and 29 full-phase matters at a comparable point in my Democratic predecessor's term. Considering the careful analysis and generally high quality of our current matters I think this is a record that compares favorably with that of any earlier Commission.

These figures are for FY-82 and FY-77 respectively. Some distortion is introduced by the fact that certain types of very preliminary matters were not formally reported in FY-77, thus understating the figure for initial investigations in that year as compared with current output. At a later year in my predecessor's term, FY-80, after the present standards went into effect on November 30, 1970, 214 initial investigations were opened. That figure has some distortions of its own, however, since it comes relatively late in my predecessor's term when a fuller stream of cases may normally be expected.

RPM Enforcement

QUESTION: How many resale price maintenance Part III administrative complaints has the Commission issued since you became Chairman? Isn't it true that there have been none? And isn't it the case that the only two RPM consent agreements issued since you've been Chairman were essentially completed when you arrived? Isn't it also the case that the only adjudicatory order against resale price maintenance since you arrived was in the Russell Stover case and you voted against it?

ANSWER: In fact, no new RPM complaints have been issued in the past eighteen months. However, it should be noted that similarly none were issued during three of the four years of my predecessor's term, although there were some consent decrees.

The RPM enforcement record is best expressed by our pending investigations. During my first year as Chairman we opened ten initial investigations, and, so far this fiscal year, another nine in this area. This contrasts with the first two years of my predecessor's administration, when three and four initial phase investigations were instituted.[1]

Regarding the Russell Stover case, it involved the fragmented, competitive market for boxed candy, in which no retailer was likely to possess sufficient unilateral market power to impose an artifically high price on consumers, and so I could not support the case as a useful exercise of our power. The two consent agreements were negotiated in substantial part before my arrival, but I contributed to the shaping of the final language and was able to vote in support of each of them.

Robinson-Patman Enforcement

QUESTION: How many Robinson-Patman complaints have been issued since you became Chairman?

ANSWER: No complaints have been issued in this area during my tenure. By contrast, only one complaint was issued in FY-77, only two in FY-78, none in FY-79, and only one in FY-80.

Price-Fixing Enforcement

QUESTION: How many horizontal price-fixing complaints have been issued since you became Chairman? Didn't you promise vigorous law enforcement in this area? What's wrong?

ANSWER: There have been no horizontal price-fixing complaints issued since I became Chairman. I did in fact identify this as one of my areas of highest priority. The absence of complaints here has therefore been a cause of concern to me.

There are several different reasons for this state of the matter. To some extent we are probably victims of our own success, in that the clearly illegal nature of price-fixing, and the relatively severe penalties for it, have largely deterred violations. Moreover, cases that are found tend to be settled at a relatively early point, as has been true for most components of our program on the professions. To some further extent we are hampered by difficulties in obtaining information. Information about other types of violation is generally easy to obtain, because there is often a firm that is a party to the agreement, and thus knows its details, and is also harmed by it, and thus is motivated to report the details to us. Such is not the case in horizontal collusion. The parties to the agreement there are certainly not going to tell us about it, and outsiders may suspect a law violation but will seldom be familiar with its terms or able to state confidently that it exists at all. Thus the difficulty in obtaining good leads is a continuing problem.

We have taken a number of steps to cure this problem. First, we are analyzing industry data in an effort to spot patterns of behavior that may indicate the presence of underlying price-fixing. Second, we are devising a reporting form that can be distributed to purchasing agents for large institutional buyers -- people who will be in a good position to follow price movements over time -- which will make it easy for them to bring suspected instances of price-fixing to our attention. Third, we

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1/ FY-77 and FY-78 numbers may be biased low, for the reasons stated above.

are carefully considering whether and in what circumstances we should challenge practices that, while not collusive themselves, have the effect of facilitating collusion.

Product Defect Disclosure Program

QUESTION: How many new complaints have been issued in the Commission's product defects disclosure program since you became Chairman?

ANSWER: Although no new complaints have been issued, a settlement was reached in Champion Home Builders (D-9151; provisionally accepted October 22, 1982) which will provide $550,000 in redress to owners of defective solar furnaces. The Commission also will shortly decide whether to accept a proposed settlement in General Motors (D-9145). Further, the Director of the Bureau of Consumer Protection will shortly recommend that the Commission issue a complaint against a manufacturer of heat detectors which allegedly do not provide adequate warning of residential fires.

QUESTION: How does this compare to the number of complaints and/or consents issued in the 5-year period before you became Chairman?

ANSWER: During the previous five years, five complaints and three final consent orders were issued, and three consents were provisionally accepted and published for comment. Final orders in the three provisionally accepted settlements have been issued since I became Chairman.

Complaints issued: 5

1) Ford Motor Company D-9105 (January 10, 1978)
2) General Motors D-9145 (August 8, 1980)
3) International Harvester D-9147 (October 10, 1980)
4) Champion Home Builders D-9151 (February 5, 1981)
5) Volkswagen of America, et al D-9154 (April 1, 1981)

Final Consent Orders: 3

1) Fedders Corporation C-2971 (June 14, 1979)
2) Chrysler Corporation (rust) C-3033 (August 13, 1980)
3) Ford Motor Company D-9105 (October 2, 1980)

Provisionally Accepted Consent Order: 3

1) Chrysler Corporation (oil filters) C-3084 (September 2, 1981)
2) Volkswagen of America C-3090 (September 29, 1981)
3) America Honda Motor Co. C-3082 (July 29, 1981)

PREPARED STATEMENT

Senator Laxalt. Do any of you have any observations of any way the Committee can be of help to you?

Mr. Miller. Senator, your staff has been very responsive and cooperative.

Senator Laxalt. I am delighted to hear that. Thank you all.

[The full statement follows:]

FEDERAL TRADE COMMISSION

PREPARED STATEMENT
OF
JAMES C. MILLER III
CHAIRMAN

Mr. Chairman and Members of the Subcommittee: I am pleased to have this opportunity to represent the Federal Trade Commission and discuss the budget it recommends for fiscal year 1984.

Congress has charged the Commission with protecting the American public from "unfair methods of competition" and "unfair acts or practices". Thus, we have a responsibility to ensure that American consumers are able to enjoy the advantages of a vigorously competitive market free of fraudulent and deceptive practices. My fellow Commissioners and I remain committed to achieving this goal.

FY 1984 Budget Request

The FTC's budget request for fiscal 1984 reflects a reduction in funding from fiscal 1983. The proposed budget, which was approved by the Commission, requests $59.5 million and 1,199 workyears, a reduction of $1.3 million and 111 workyears from the budget President Reagan proposed (and the Commission approved) for fiscal 1983, and a reduction of $4.1 million and 141 workyears from the levels contained in the latest Continuing Resolution.

The Commission's fiscal 1984 budget request designates funding for the agency's three missions as follows: Maintaining Competition -- $28,269,000 and 560 workyears; Consumer Protection -- $27,127,000 and 553 workyears; and Economic Activities -- $4,061,000 and 86 workyears.

Among other things, the $28.3 million allocated to the Maintaining Competition mission will permit the Commission to:

- Investigate alleged restrictions on competition in the delivery of health care services;
- Challenge significant anticompetitive mergers in all sectors of the economy;
- Further the goals of its new international antitrust program, designed to address the manifold problems associated with anticompetitive conduct involving international trade and foreign ownership; and
- Continue to provide advice to other government agencies regarding the competitive impact of their rules and regulations.

The $27.1 million allocated to the Consumer Protection mission will provide for a strong consumer protection program. Specifically, the Commission will continue to:

- Shift resources away from industrywide rulemaking in order to target its efforts to important cases of egregious behavior;

- Emphasize information disclosure, because in many cases this strategy provides an efficient and effective way of remedying market imperfections -- without the need for government intervention;

- Clarify its policies and procedures in the advertising substantiation area, in an effort to promote more truthful advertising;

- Centralize responsibility for handling rules and statutes relating to many diverse subject areas into a single, coordinated enforcement program;

- Perform benefit-cost analyses of specific measures in order to assure that its consumer protection resources are allocated efficiently and that its enforcement program is cost-effective.

- Work with other agencies to emphasize the effects of their rules and regulations on the ultimate consumer.

The $4.1 million allocated to the Commission's Economic Activities mission will be used to stress its traditional emphasis on independent analysis and reporting on important issues concerning the economy. Studies are expected on the health care industry and special problems facing small businesses, among others.

To accomplish these mission objectives in fiscal 1984, the Commission will accelerate efforts to improve management and control costs, building upon organizational and management changes achieved last year. These changes, which increased staff accountability and consolidated overlapping programs, have helped utilize more fully Commission resources and have strengthened the effectiveness of the Commission's law enforcement program. The Commission's fiscal 1984 budget request obviously implies even more careful husbanding of the agency's resources. But I believe that the Commission's work can be accomplished, provided we are granted flexibility to manage the agency's resources in the most cost-effective manner.

Regional Office Issue

Certain assumptions about our fiscal 1983 budget operations must be taken into account when assessing the fiscal 1984 budget request. As it now stands our fiscal 1984 budget request assumes that the Commission's regional operations will have six instead of ten offices.

As you know, we have communicated extensively with this committee and with its sister committee in the other body regarding this controversial issue. Pursuant to guidance received in formal communications from you, Mr. Chairman, and guidance from Chairman Smith of the House Appropriations Subcommittee, the Commission is now implementing a regional office plan.

Under this plan, the Commission will retain all 10 regional offices. It will also maintain in each office a viable program of antitrust and consumer protection, including case generation and enforcement, complaint handling, and consumer and business education. As shown in the attached table, offices now exceeding 18 workyears in strength will be reduced to that number; the Boston and Denver offices will remain at 16 and nine workyears respectively. Total workyears devoted to regional offices will be reduced to 169, from the current level of 222.

Aside from implementing this plan for regional offices, the Commission is taking additional steps to bring its spending in line with the current budget. For example, we have reduced travel budgets and contract budgets by $300 thousand and $230 thousand respectively. We are also continuing our limited hiring freeze, and are accelerating steps to reduce our space requirements in order to realize additional savings.

Let me assure you, Mr. Chairman and Members of the Subcommittee, our interest in revamping the regional offices is not driven by any desire to weaken our law enforcement activities. On the contrary, it is driven by our desire to improve the allocation of enforcement resources within realistic budget restraints and to improve the overall management -- and thus effectiveness -- of taxpayer resources devoted to FTC regional operations.

Mr. Chairman, I am very glad to get the regional office matter behind us and am grateful to the work of this subcommittee in helping to resolve it. For too long the regional office controversy has deflected our attention from more important challenges and has placed a pall on our efforts in the regions. With this problem behind us, I think we can now move forward with a revitalized regional effort.

Mr. Chairman and Members of the Subcommittee: let me again assure you of our determination to ensure that the Commission carries out its statutory mandate in the most cost-effective manner.

In this connection, let me note that Congress will be addressing the FTC's authority again this year. I believe that several refinements are needed in the Commission's principal enabling statutes. I believe that the laws the Commission administers and the rules and regulations the agency promulgates should be clear, reasonable, and efficient. But that accomplished, I respectively submit that such laws, rules, and regulations should apply to everyone. There should be no exemptions or exclusions.

Mr. Chairman and Members of the Subcommittee: that concludes my prepared remarks. My colleagues and I would be happy to respond to any questions you might have.

Current vs. Planned FTC Regional Office Structure

Regional Office	Current Workyears	Planned Workyears
Atlanta	20	18
Boston	16	16
Chicago	34	18
Cleveland	24	18
Dallas	18	18
Denver	9	9
Los Angeles	19	18
New York	39	18
San Francisco	23	18
Seattle	20	18
Total	222	169

Federal Trade Commission
Comprehensive Budget Statement
Fiscal 1984

The Commission's fiscal 1984 budget request totals $59,457,000 and 1,199 workyears. Headquarters is budgeted for 1,062 workyears with the remaining 137 workyears allocated to six regional offices. These dollar and workyear levels reflect current and projected caseloads and were developed after an intensive review of the merits of all programs and with a conscious effort to hold the fiscal 1984 budget to the minimum necessary to carry out the agency's statutory responsibilities. Consequently, the 1984 budget proposes staff and dollar reductions totaling 141 workyears and $5.4 million respectively. The table below summarizes the Commissions 1984 budget request.

Mission	Fiscal 83	($000) Fiscal 84	Change
Maintaining Competition...	$30,681	$28,269	-$2,412
Consumer Protection.......	29,893	27,127	- 2,766
Economic Activities.......	4,297	4,061	- 236
	64,871[1)]	59,457	- 5,414
Workyears................	1,340	1,199	- 141

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1) Includes a pending pay supplemental request of $1,233,000.

The Commission will experience a drop of 8.3 percent in funding between 1983 and 1984 and a 10.5 percent reduction in workyears over the same period. Attachment A provides a breakdown of this reduction by major mission. A summary of mission activity for fiscal 1984 follows.

I. Maintaining Competition

The 560 workyears and $28.3 million contained in the budget request would permit the Commission to carry forward existing matters and to initiate a number of new investigations, advocacy efforts, advisory services plus other activities. Specifically the budget:

* Permits the Commmission to devote resources to the investigation of alleged restrictions on competition in the delivery of health care services.

* Supports investigations or challenges to significant anti-competitive mergers in the food sector.

* Creates a specific program, the International Antitrust Program, designed to focus on international anticompetitive conduct detrimental to American domestic, import or export trade.

* Continues the Commission's capability to advise other government agencies on competition problems.

II. Consumer Protection

The 553 workyears and $27.1 million allocated to the Consumer Protection mission will permit a strong consumer protection program to continue through implementation of these policies or actions:

* The Commission will continue to shift resources away from industrywide rule proposals thus freeing resources for use in a case-by-case enforcement approach.

* Information disclosure will remain central to many Consumer Protection programs because it provides an efficient and effective way to allow consumers to regulate the market without the need for government rules.

- Investigations concerning various professional groups are expected to reach stages where alternative strategies can be selected to address any unlawful restrictions which might be uncovered.

- The Commission will continue to clarify its policies and procedures in the advertising substantiation area in an effort to promote more effective self-regulation.

- An increased emphasis on joint FTC Industry business and consumer information will lessen need for government regulation.

- Placing responsibility for handling rules and statutes relating to many diverse subject areas in a single enforcement program is expected to improve staff productivity and thereby mitigate resource reductions between 1983 and 1984.

Finally, under the Economic and Regulatory Analysis program, the Commission will devote resources to performing cost-benefit analyses and to integrating legal and economic theory and solutions in its work. In this way the Commission should be able to ensure that their regulations deliver benefits that exceed costs while performing in the most effective manner.

III. Economic Activities

The Economic Activities mission was reduced 9 workyears and $236,000. In Fiscal 1984 the Commission plans to stress its traditional emphasis of independent analysis and reporting on important issues concerning the economy. Studies are expected on the health care industry, motor carrier rate setting practices and special problems facing small businesses.

* * *

In summary, the Commissions fiscal 1984 budget request provides for 1,199 workyears and $59,457,000. These amounts represent a 141 workyear and $5.4 million reduction from fiscal 1983. As described above, this budget with careful management will permit the Commission to meet its maintaining competition, consumer protection, and economic enforcement mandates.

FEDERAL TRADE COMMISSION
Comparative Sumary of the Budget Request
($000)

Estimate by Budget Activity	1982 Actual		1983 Enacted[1]		1983 Anticipated[2]		Current 1984 Estimate	
	Wkyrs.	Amt.	Wkyrs.	Amt.	Wkyrs.	Amt.	Wkyrs.	Amt.
Maintaining Competition....	673	$30,888	632	$30,085	623	$30,681	560	$28,269
Consumer Protection.....	674	30,961	631	29,335	622	29,893	553	27,127
Economic Activities.....	144	6,552	97	4,218	95	4,297	86	4,061
Total...........	1,491	68,401	1,360	63,638	1,340	64,871	1,199	59,457

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[1] Continuing Resolution.
[2] Includes pay supplemental request of $1,233,000.

FEDERAL COMMUNICATIONS COMMISSION

STATEMENT OF MARK S. FOWLER, CHAIRMAN

ACCOMPANIED BY:
- **EDWARD J. MINKEL, MANAGING DIRECTOR**
- **GARY M. EPSTEIN, CHIEF OF THE COMMON CARRIER BUREAU**
- **LAURENCE E. HARRIS, CHIEF OF THE MASS MEDIA BUREAU**
- **THOMAS P. CAMPBELL, ASSOCIATE MANAGING DIRECTOR FOR OPERATIONS**
- **BRUCE FEIN, GENERAL COUNSEL**

BUDGET REQUEST

Senator LAXALT. We will be in order.

Our next request is that of the Federal Communications Commission. The amount requested is $86,159,000, an increase of $3,223,000 over the 1983 base, and provides for 1,896 permanent positions.

Appearing on behalf of this request is Mark S. Fowler. I want to welcome you here, Mr. Chairman and express my appreciation for your fine efforts to advance the deregulation of the communications industry. In the opinion of many of us, you have instituted reforms that were long overdue.

You may proceed with your statement.

GENERAL OVERVIEW OF THE BUDGET REQUEST

Mr. FOWLER. Thank you very much, Mr. Chairman. I appreciate the opportunity to review with you the Commission's fiscal year 1984 budget. With me today are the Commission's senior staff members, including: Ed Minkel, the Managing Director; Gary Epstein, Chief of the Common Carrier Bureau; Larry Harris, Chief of the Mass Media Bureau; Jim McKinney, Chief of the Private Radio Bureau; Bruce Fein, our General Counsel; Richard Smith, Chief of our Field Operations Bureau; and Tom Campbell, our Associate Managing Director for Operations.

Our fiscal year 1984 budget estimates propose a total of $86,159,000. This is an increase of $6,342,000, over our fiscal year 1983 appropriation of $79,817,000.

I am going to be brief with my testimony, Mr. Chairman, because I know you are attempting to expedite things.

I would, however, like to say that out of the $6,342,000, $3.8 million are for fixed costs—cost increases over which we have basically no control. A large part of that $3.2 million is an increase in our fiscal year 1984 SLUC rate.

We also have programmatic increases of $1,630,000. Of that, $751,000 is for our ADP program. These funds would allow us to use computers and get more productive in the state of the art, so to speak.

One of our more important objectives is to make government run more efficiently and get things done quickly with a minimum of delay. We think the computer money is money well spent. In fact, it can reduce personnel.

The second part of the $1,630,000 is $437,000 to replace some of our field equipment which is getting old and needs to be replaced. We also have to repair our monitoring stations at Livermore, Calif. and at Waipahu, Hawaii. The station in Livermore, Calif. has suffered earthquake damage and the one in Hawaii has suffered extensive termite damage. In fact, that building is about ready to collapse on us, if the termites fail to hold it up.

We are also requesting an increase of $23,000 for our international travel account. We find, in order to protect our vital interest in international conferences dealing with telecommunications, it is necessary to be present at those conferences to talk to governments attempting to open up markets, which is one of the things we are attempting to do also, and to tell others of the success of our free market and why it works better than alternative systems.

I suppose I can submit my written statement for the record, Mr. Chairman, and avoid reading all of this, if that would be acceptable.

Senator LAXALT. That will be perfectly acceptable.

MANAGEMENT-BY-OBJECTIVES PROGRAM

Mr. FOWLER. The other thing I wanted to say is that we have a management-by-objectives program in order to make the agency as efficient as possible. Under this program we have five objectives: One, to create, to the maximum extent possible, an unregulated, competitive marketplace environment for the development of telecommunications; two, to eliminate unnecessary regulations and policies; three, to provide service for the public in an expeditious manner and make the agency work quickly; telephone calls must be returned within 24 hours; four, to represent ourselves in the international communications arena to protect our vital interests in defense, commerce, and foreign policy; and five, to so honor the first amendment that we get the Government out of content which we were heavily involved in in the past. I am proud to say President Reagan has been the first President to say that radio and television should be as free as the print media under the first amendment.

IMPLEMENTATION OF MBO SYSTEM AT THE COMMISSION

The way the system works, I went to each of my bureau chiefs earlier on and said, here are the five objectives, what are your objectives. Each bureau chief came up with his or her objectives and developed an action plan designed to meet his or her objectives. After I approved these plans, they went to the division level, then to the branch level then we went down to an individual person for their opinions as to what their objectives should be.

We have, within the Agency, action plans with specific completion dates. We would like to say that we look at everyone in terms of performance and we measure each employee's performance through the objectives set by his or her supervisor. We look at performance in the Agency. We don't look at who dresses well or who has a sense of humor. I think that slowly and surely we are making the Agency more productive.

I think our Agency's workload is exploding because of new technologies. I think one thing that we have found out, generally speaking, is that the Federal Government has been overstaffed and, as a result, our career civil service people are not given the kind of opportunity to stretch as human beings that is provided in the private sector. We find the more we expect of people the more they respond. Things break down when our career service people are not taxed, they have a lot of time to fill.

Senator LAXALT. I was having a conversation the other day with the Director of OPM, Mr. Donald Devine, who was telling me that there are efforts throughout the whole Government to increase performance. He made the same point that we have a lot of good people, but they just have not been given a chance.

Mr. FOWLER. Another thing, when you tell somebody they don't need to work, that person over a period of time will not stay. If you say, I will pay you but you are ordered not to work, no one worth his salt will stay. The problem in some cases has been overstaffing and with putting people exactly where you need them within the archaic civil service laws. That is another problem.

DEREGULATION OF THE TELECOMMUNICATIONS INDUSTRY

The bottom line on what we are attempting to do is to get new technologies into the marketplace. Telecommunications is one of the most dynamic sectors in the domestic economy. Internationally it is the third largest export after aerospace and agriculture. We have demonstrated that by getting the Government out of the way the consumer is much better off. A good example is to look at our decision to let the people own telephones. The consumer used to have to pay $25 or $30 a year to rent telephones. You can buy it now for $19.95, and that is a one-time purchase. That is an example of the philosophy of the President that the marketplace works better if you unleash those dynamic competitive forces. We are attempting to do that and we can point to many areas, not only what we have done with telephones and equipment that hooks up to the wire, but also we can point outside the Agency to the President's decision to deregulate oil. Before that decision there were long lines, rationing, shortages, short hours for service stations and now we find we have an abundance of oil, the beginning of the end of the cartel.

I am getting a little far afield. The point I am making is we need to point to the things that specifically benefit the common man when we let the competitive marketplace forces work.

Senator LAXALT. Thank you very much.

[The statement of Mark S. Fowler follows:]

PREPARED STATEMENT OF MARK S. FOWLER
CHAIRMAN
FEDERAL COMMUNICATIONS COMMISSION

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, I APPRECIATE THE OPPORTUNITY TO REVIEW WITH YOU THE FEDERAL COMMUNICATIONS COMMISSION'S FISCAL YEAR 1984 BUDGET ESTIMATES. WITH ME TODAY ARE SENIOR STAFF MEMBERS, INCLUDING: ED MINKEL, THE MANAGING DIRECTOR; GARY EPSTEIN, CHIEF OF THE COMMON CARRIER BUREAU; LARRY HARRIS, CHIEF OF THE MASS MEDIA BUREAU; JIM MCKINNEY, CHIEF OF THE PRIVATE RADIO BUREAU; BRUCE FEIN, OUR GENERAL COUNSEL; RICHARD SMITH, CHIEF OF OUR FIELD OPERATIONS BUREAU; AND TOM CAMPBELL, OUR ASSOCIATE MANAGING DIRECTOR FOR OPERATIONS.

OUR FY 1984 BUDGET ESTIMATES PROPOSE A TOTAL OF $86,159,000. THIS IS AN INCREASE OF $6,342,000 OVER OUR FY 1983 APPROPRIATION OF $79,817,000 CONTAINED IN THE CURRENT CONTINUING RESOLUTION. WE ARE REQUESTING THE SAME NUMBER OF POSITIONS--1896--IN FY 1984 AS WE HAVE IN FY 1983. WE ARE ALSO REQUESTING AN FY 1983 PAY SUPPLEMENTAL OF $3,119,000.

BEFORE ADDRESSING THE DETAILS OF OUR ESTIMATES, I WOULD LIKE TO DISCUSS THE IMPORTANCE OF THE COMMISSION'S MISSION TO NATIONAL PROSPERITY AND JOBS. I AM SURE YOU RECOGNIZE THAT TELECOMMUNICATIONS IS ONE OF THE FASTEST GROWING SECTORS OF OUR ECONOMY. IT CURRENTLY REPRESENTS 3% OF OUR GROSS NATIONAL PRODUCT AND IT IS EXPANDING AT A 13% ANNUAL RATE. FURTHER, AFTER AGRICULTURE AND AEROSPACE, TELECOMMUNICATIONS IS OUR THIRD LARGEST EXPORT, AND GROWING AT AN EXPONENTIAL RATE WHEN OTHER EXPORT SECTORS ARE DECLINING. FOR EXAMPLE, IN 1981 THE EXPORTS OF THE TELECOMMUNICATIONS AND COMPUTER INDUSTRIES RESULTED IN A POSITIVE BALANCE OF TRADE OF TEN BILLION DOLLARS, WHEREAS THE ECONOMY AS A WHOLE HAD A NEGATIVE BALANCE OF MERCHANDISE TRADE OF 26 BILLION DOLLARS. IN ADDITION, DURING THE LAST 20 YEARS, NINE OUT OF TEN JOBS CREATED IN THE UNITED STATES CAN BE TRACED TO SUCH MARKETS AS COMPUTERS, DATA BASE MANAGEMENT, ELECTRONICS, FIBER OPTICS, SATELLITES AND COMMUNICATIONS NETWORK SERVICES.

THE COMMISSION IS UNSWERVINGLY COMMITTED TO FOSTERING INNOVATION, PRODUCTIVITY, COMPETITION, AND GROWTH IN THE TELECOMMUNICATIONS INDUSTRY. ONE METHOD OF ACCOMPLISHING THESE GOALS IS TO DESIST FROM REGULATION WHERE COMPETITIVE FORCES SO DICTATE. IN MANY AREAS, HOWEVER, THE COMMISSION CAN ADVANCE ITS GOALS ONLY BY UNDERTAKING AFFIRMATIVE ACTION TO AUTHORIZE NEW SERVICES IN THE TELECOMMUNICATIONS MARKETPLACE. OUR RECENT INITIATIVES REGARDING DIRECT BROADCAST SATELLITES AND CELLULAR RADIO ARE ILLUSTRATIVE.

THE COMMISSION HAS FORMULATED ITS BUDGET REQUEST WITH THE TWOFOLD PURPOSE OF PROVIDING ADEQUATE FUNDS TO INAUGURATE NEW SERVICE AND ENTRY INTO TELECOMMUNICATIONS AND TO CONTINUE TO OPERATE UNDER A REGIME OF FISCAL AUSTERITY.

WE ANTICIPATE THAT MANAGEMENT EFFICIENCIES AT THE COMMISSION WILL PERMIT CURRENT STAFFING LEVELS TO HANDLE AN EXPANDING WORKLOAD. OUR MANAGEMENT-BY-OBJECTIVES PROGRAM AND THE CONTINUED EXPANSION OF OUR COMPUTER RESOURCES WILL BE IMPORTANT IN THIS REGARD. WE ALSO EXPECT THAT WITH THE RESOURCES CONTAINED IN THIS BUDGET THAT WE WILL BEGIN PROCESSING LOW POWER TV APPLICATIONS BY JUNE 1983.

TURNING NOW TO THE DETAILS OF OUR BUDGET ESTIMATES, I WOULD LIKE TO FIRST POINT OUT THAT OUR FY 1984 ESTIMATES ASSUME THE REDUCTION OF $2,339,000 IN ONE-TIME COSTS FROM OUR FY 1983 BASE. THESE SAVINGS ARE POSSIBLE DUE TO THE RECENTLY ENACTED REDUCTION FROM SEVEN TO FIVE MEMBERS OF THE COMMISSION, THE DELETION OF COSTS ASSOCIATED WITH THE IMPLEMENTATION OF OUR COMPUTER II DECISION, THE OCCURRENCE OF ONE LESS PAID DAY IN FY 1984, AND THE COMPLETION OF THE FIRST PHASE OF REPLACING OUR ANCHORAGE, ALASKA MONITORING STATION. ONCE THESE ONE-TIME COSTS ARE REMOVED, OUR FY 1983 BASE IS $77,478,000, OR $8,681,000 BELOW OUR FY 1984 REQUEST OF $86,159,000.

TURNING NOW TO OUR PROPOSED INCREASES, THE LARGEST SINGLE COMPONENT OF THE INCREASE GOES TOWARD MEETING FIXED COSTS. OUR TOTAL REQUEST FOR FIXED COST INCREASES IS $3,839,000. WITHIN THIS TOTAL ARE THE FOLLOWING ITEMS:

o Office space rental	$3,215,000
o Federal Telecommunications System (FTS)	270,000
o Health Premiums and Medicare Tax	223,000
o ADP Program	131,000

The office space increase represents an almost 50% increase in the rental amounts paid to GSA for our current Headquarters space. The FTS increase was also mandated by GSA.

In addition to these fixed cost increases, our FY 1984 request includes $3,212,000 to fund the FY 1984 impact of the recent Federal pay increases for both General Schedule and Executives.

Finally, our request includes $1,630,000 for program increases. Of this total, $751,000 is for our ADP program. This is one of our highest priority programs. As I stated earlier, we are quite conscious of the need to minimize Federal expenditures and, in the face of ever increasing workloads, we believe that continuing our program to expand the use of computers is the most cost-effective tool available to us. While the details of this request are contained in our Estimates, I would like to highlight the fact that within this amount is $260,000 to automate one-half of our field offices. We expect that these offices, which are generally small offices with 5-15 staff members, will be able to make particularly good use of automated systems.

In addition to the expansion of our ADP program we are requesting $437,000 to replace existing and purchase new technical equipment to be used in our field offices. An increase in this account is essential if we are to keep up with the technical advances in telecommunications and replace obsolete equipment.

Our next proposed increase is for replacement of our Livermore, California Monitoring Station and to repair our Waipahu, Hawaii Monitoring Station. The Livermore Station is 36 years old, has suffered earthquake damage a number of times, the last being in 1980, and also has had serious flood damage. The Waipahu station is 19 years old and has been badly damaged by termites.

FINALLY, WE ARE REQUESTING $23,000 FOR OUR INTERNATIONAL TRAVEL ACCOUNT. THIS AMOUNT IS THE MINIMUM INCREASE NEEDED TO ALLOW THE COMMISSION TO MAINTAIN ITS PIVOTAL ROLE AT A VARIETY OF INTERNATIONAL CONFERENCES, AND TO SAFEGUARD THE NATION'S INTEREST IN FREE GLOBAL TELECOMMUNICATIONS MARKETS.

THIS COMPLETES MY PREPARED STATEMENT. I WILL BE PLEASED TO ANSWER THE COMMITTEES QUESTIONS.

LOW-POWER TELEVISION APPLICATIONS

Senator LAXALT. Concerns have been expressed over the past few years about the backlog of applications for approval to operate television translators and low-power television. This has had a particular impact on rural areas. What steps has the Commission taken to correct this problem and what will you be doing in the future?

Mr. FOWLER. When we came into office they authorized a new concept, low-power television. It is a very exciting concept. It is a concept that my predecessor Chairman Ferris had.

Basically, these are television stations that have very low power that you can put on the air and operate within a 15- to 20-mile service area—they are not gigantic, if you will. The idea was, by having more service areas you can put more of them on the air without having interference with other stations on the same frequencies. What we never foresaw was the tremendous demand and interest in low-power television. As a result, there were 7,000 applications filed with the FCC. It is important to put that into context.

Senator LAXALT. These are rural areas?

Mr. FOWLER. Rural and urban and medium markets. Right now we are looking at 7,000 applications of which we will probably grant about 4,000. Some can't be granted because they are for the same channels in the same communities. Somebody wins, somebody loses. There will be roughly a 350 percent increase over everything we have done in the history of the agency. That has been the administrative impact.

LPTV COMPUTER AND LOTTERY

To answer your question, we have been working with computers to sort out the interference changes LPTV stations cause. Once we have that computer on line, which we expect will be June 1, we will begin to process applications. We have been doing by hand as many as 200 a month. With the computers we will be able to do up to 500 a month. That will be a significant increase. And then we will start to have the service.

Also at the end of this month we are going to adopt a lottery. Instead of having to use comparative hearings, we can use a lottery which is another way of making government more efficient. The combination of the computer and the lottery will allow us to see this out.

IMPLEMENTATION OF A FEE SCHEDULE

Senator **Laxalt**. The FCC instituted a fee schedule in the early 1970's which was subsequently overturned in a court action. The authority for these fees derived from the Independent Offices Appropriations Act of 1952.

Based on the guidance given in the relevant court decisions, can't the FCC again establish a reasonable fee schedule, especially in view of the fact that the Federal Energy Regulatory Commission is beginning to do so?

Have you looked into that?

Mr. **Fowler**. We have, and our sense has been great uncertainty. The problem is, how do you allocate cost and what is reasonable cost, and what is it based on? That is the whole thrust of the litigation; that the Commission had not, so to speak, taxed people so that the tax reflected the value received as a result of services performed by the agency.

So we think the better way to do this, having gone through this, is have the Congress set particular fees. We are confident if the Congress does that that we can withstand any kind of judicial challenge. Indeed, there is a bill introduced in the Senate, S. 55, which provides for specific fees for particular kinds of applications.

Senator **Laxalt**. Where is that?

Mr. **Campbell**. It has been passed by the full Senate and it is pending in the House.

Mr. **Fowler**. To answer your question, that is the way to go.

GSA SLUC INCREASES

Senator **Laxalt**. You apparently have rent problems with GSA, let me ask you about that. They apparently mandated an increase of $3,215,000 for standard level user charges, or rental payments. This represents an increase of almost 50 percent for FCC headquarters rental. What justification does GSA give for the increase?

Mr. **Fowler**. I understand it fluctuates. Their design is to charge the Agency what the rate would be on a comparative basis if you were a private sector business renting in that area. Although it is about a 50-percent increase, in fact we have done a further analysis and it appears to us that the fluctuation rate is in line with competitive rates being charged in the area.

SUBMITTED QUESTIONS

Senator **Laxalt**. That is all we have. We have other written questions that we will submit to you, Mr. Chairman, and members of the senior staff. We would like you to respond to that as soon as you can so I can make them available to the other members of the subcommittee.

I commend you for the good work you are doing.

[The following questions were not asked at the hearing, but were submitted to the Commission for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR HOLLINGS

Question: A soon to be released report by GAO states that the FCC lacks reliable information on common carrier and broadcast licensing speeds. Do you agree with this conclusion? If so, what specific steps are you taking to remedy this problem, and when will they be completed?

Answer: The Mass Media Bureau already has in operation a system which can be used to establish application processing objectives and accurately report on how resources are being used to meet these objectives. The Mass Media Bureau has two ways of measuring speed of service:

(1) We can measure the "in house" time associated with cases disposed of during a given month, quarter, or year. Essentially, this is a measure of output only which we call "turnaround time."

(2) We can also measure the time associated with cases currently on file and not processed, i.e., how long they have been in-house. This is referred to as "age of pending."

We believe that age of pending is superior to turnaround time as a true measure of speed of service. First, it gives the manager information on his entire inventory, not just those cases which are exiting the backlog. It gives a better total picture of the current situation. Secondly, turnaround time can be very misleading. By concentrating on disposition of easy cases, a "clever" manager will appear successful while accumulating more difficult and time-consuming cases in his backlog. Age of pending data identifies this potentially serious problem. Conversely, the diligent manager who not only tries to keep the routine cases flowing smoothly but also works to clean out older, problem cases from his inventory will appear less successful if measured by turnaround time because he is disposing of older, time-consuming cases and the turnaround times will therefore be higher.

The Bureau currently has computer programs which will yield both age of pending and turnaround time reports. Until recently, the data produced by these reports, has not been considered reliable because of inaccuracies in the Broadcast Applications Processing System (BAPS) data base. With the reorganization of the Mass Media Bureau, however, responsibility for the integrity of the BAPS data bases now comes under the direct control of the individual branch chiefs. The time required to clean up the data base associated with each of the new processing categories will depend on the data base size, branch priorities, and the resources available to devote to this task.

We do not agree that the FCC lacks information on common carrier licensing speeds. The Domestic Facilities Division has computerized records of all applications showing the date they were received and the date they were granted, and we have skilled programmers who can write programs to extract speed of service statistics in any reasonable manner. At the current time we track how many applications are currently pending at the end of each month in each service, how many were filed and how many were acted upon that month. This information is contained in a monthly report. Of those that were acted upon we can calculate the average number of days they were pending prior to action. This varies from month to month depending upon the relative number of old versus new applications that were processed. We have just started tracking the percent of actions that have been taken for applications that were filed for each month of the last 12 months.

The Mobile Services Division also makes extensive use of computer facilities in issuing construction permits and frequency authorizations and in making frequency and interference checks. The staff currently is examining ways of improving and expanding the use of computers in the processing of domestic land mobile and cellular radio license applications.

Because we believe we sufficiently track speed of service statistics, we have no plans to collect additional data on licensing speeds. We feel that we have adequate data now to determine where resources and efforts are needed most and whether we are progressing or falling behind. Programs can be developed fairly quickly to make any measurement that is required.

Question: This GAO report also concludes that the FCC's 1980 data processing network plan was far from successful. For example, the network cannot process licenses because software does not exist. What specific steps are you taking to automate license processing, and when will they be completed?

Answer: The network equipment installed to date has introduced a number of important office automation capabilities which have materially upgraded the productivity of the clerical and professional staff. An efficient standard word processing package has been implemented on this equipment which will permit the phasing-out of our leased stand-alone and non-communicating, word processing equipment. When this phase-out is completed by the end of FY 1984, the Commission will realize a rental cost avoidance of approximately $110,000 annually.

Network equipment is supporting license processing in our Gettysburg licensing facility by tracking the status of the bulk of the agency's license applications. In addition, the equipment supports our equipment type acceptance certification program at the Laboratory, a docket citator system in the Office of the Secretary, personnel staffing plans in several bureaus and offices, as well as electronic mail throughout the Commission.

Therefore, we believe that our network efforts have been successful both in direct as well as indirect support of our licensing programs

With respect to the automation of our licensing systems, the following information provides the current status of on-going projects as well as those recently completed.

Work is now underway to design a fully automated Land Mobile License Application Processing System (ALMAPS) for the Gettysburg facility. A minicomputer will replace the network equipement as well as the Entrex data entry facility at that site. The system will interface with the automated non-government master frequency file residing on the central site Honeywell mainframe computer. The system is being implemented in phases. Phase I will automate the renewal notifications and renewal licenses by June 1983. Phase II encompasses all data entry, applications tracking and Canadian clearance processing, to be completed during FY 1984.

The automated Amateur licensing system has been redesigned during the first quarter of FY 1983 and now permits on-line queries against the data base and the automatic assignment of call signs.

We also plan to re-engineer our automated microwave licensing systems for all services using data base management technology. This effort will be completed by the end of FY 1984.

The automated Broadcast Applications Processing System (BAPS) is being redesigned to place it on-line using data base management technology. This will be completed this fiscal year.

A data base management system for Cellular Radio license applications was implemented during the first quarter of FY 1983.

The automated Low Power Television licensing system, which will interface with the Broadcast Applications Processing system, is being implemented on a dedicated minicomputer. It will be fully operational by June 1, 1983.

It should be noted that all of the Commission's licensing systems are presently automated to varying degrees. Our on-going efforts to enhance a number of these systems will insure that the agency's licensing systems are fully supported by the latest automated hardware and software tools available.

Question: While the rate of applications being filed may be decreasing for certain services, for most it is increasing, sometimes dramatically, especially with the introduction of new services. At the same time, the staff assigned to processing applications is at best holding steady. What can be done to speed the processing of applications?

Answer: In the Mass Media Bureau there are two areas where efforts are being focused to increase the application processing speed. First, efforts are underway to reduce the incoming workload by removing or avoiding the necessity for applications to be filed. For example, there is a rulemaking proposal currently under study that would, among other things, delete the requirement for an application to be filed requesting FM Subcarrier Authority. The Commission is also proposing, as part of another rulemaking, to change the operating hours of daytime AM stations (MM Docket 82-538) to determine allowable powers for each affected station, and, to issue authorizations for those powers without applications having to be filed. The Commission intends to continue to actively seek ways to eliminate or avoid requiring applications where appropriate.

The second area of focus is productivity improvement. Recently the Mass Media Bureau was reorganized. As a result, when the physical relocation of all employees is complete, several redundant application record keeping and handling steps can be eliminated. In addition, the Commission is looking to the computer for assistance with productivity improvements. Computer programs are being developed that will result in the automated issuance of authorizations, thereby removing some of the manual handling, typing and record keeping now performed. The Commission will look at the possibility of computerizing the handling and analysis of AM measurement data which is, of necessity, now done manually. Computer programs are being developed that will improve management's ability to track and evaluate its organization and to better manage its resources. Other enhancements to existing computer systems will also help speed the processing. These are important areas for improvement, but can only be carried out as limited computer resources allow.

Further, a computer has been purchased to technically identify mutually-exclusive low power television applications. The associated computer processing programs are now under development. In addition, lottery procedures will be authorized by the Commission in late March, 1983. The applicability of these procedures to the low power television service will considerably expedite the processing of mutually exclusive applications by eliminating the need for lengthy evidentiary hearings.

The MBO program implemented by the Commission is also having a beneficial effect on broadcast application processing productivity, and additional gains can be expected as managers gain experience with the approach.

Another source of productivity gain is through the identification and elimination or alteration of policies and rules that lead to additional work being performed on applications. The Commission has rule reviews underway at many levels of the organization with the ongoing obligation to identify and act on those that are counter-productive.

In the Private Radio Bureau, we believe that our present levels of speed of service are acceptable. However, we are concerned with maintaining this level in the future with increasing application receipt rates and the introduction of new services with no increase in the staff assigned to process applications. While our application processing systems, both manual and automated, have undergone extensive review and streamlining during the past several years, we believe there are still additional improvements possible.

The improvements fall into two major categories, forms and automation. In the forms area we are continuing our review and redesign of application forms to reduce the burden on the public and our processing staff. The changes made to date have improved productivity. However, we feel major productivity increases will only be obtained through automation. A specific example of automation improvement is the December 1982 installation of a Remote Job Entry (RJE) subsystem in our Gettysburg facility. This has enabled on-site printing of license documents which were previously printed in Washington and transported to Gettysburg for review prior to mailing. Since the installation of the RJE, some licenses are being mailed up to a week earlier, thereby improving our speed of service.

More significant productivity improvements will result with the implementation of the Automated Land Mobile Application Processing System (ALMAPS) which is currently under development. When implemented, ALMAPS will eliminate much of the manual processing and filing associated with applications processing, thereby improving productivity the equivalent of 12 workyears if our present application receipt levels are maintained. This savings would be applied, if needed, to handle increased application receipts and/or the establishment of new radio services within the current work force while maintaining the acceptable speed of service times experienced today.

In the Common Carrier Bureau the increasing reliance on word-processing equipment should make the staff more efficient in preparing orders, authorizations, public notices, etc., and therefore permit increased output per person. The Zilog computer that the Domestic Facilities Division is installing for its word processing requirements is also capable of being programmed to do other things. At the present time the staff in the Division are now attending classes in C Language Programming and the UNIX Operating System which is used on the Zilog computer. Others are interested in taking such instruction and they will be given that opportunity in future classes. We expect this to result in the ability of our employees to realize and make use of the full capability of the computer facility we will have.

As a general matter, the applications that are not acted upon relatively quickly (one to two months after the public comment period) are those that raise unique or particularly difficult legal or technical issues. Often these applications have numerous petitions filed against them. To withstand judicial review the decisions generally require a written order disposing of all the relevant issues. To speed processing of this type of information additional technical and legal personnel, familiar with the major trends and issues in the industry, would be required.

Question: When will the rulemaking instituting a lottery be completed?

Answer: The staff is now finalizing a proposed Report and Order implementing lottery procedures. This document will be ready for the Commission's consideration at its March 31, 1983 agenda meeting.

Question: When will the Commission complete action on the Request for Declaratory Ruling by CBS et. al.?

Answer: The Commission will complete action on the Request for Declaratory Ruling by CBS, et al., no later than May 30, 1983.

Question: How may people worked in the Political Broadcasting Branch in fiscal years 1980? 1981? 1982? 1983?

Answer: Eight people work or have worked in the Political Broadcasting Branch in each of these fiscal years.

On March 7, 1983, we lost one attorney from the Branch, bringing the total to 7. We are actively recruiting to fill this position and bring the number employed back to 8 as soon as possible.

Question: In 1981, Congress passed the Record Carrier Competition Act, barring the international record carriers from renting telex terminal equipment for an extremely low price and making up the difference in regulated telex transmission charges. I understand that last year the Commission had to resort to a cease and desist order to enforce this provision. Has this cease and desist order effectively remedied this problem? If not, what remedies are you pursuing?

Answer: The cease and desist order has not totally eliminated the problem. While only one formal complaint has been filed, we have been advised informally by certain equipment vendors that some of the carriers are continuing to offer terminal equipment free (for limited time periods) or at unreasonably low cost. We have advised those parties making such allegations to file complaints supported by whatever evidence they have. Moreover, we have informally advised the carriers that revisions to their rate structures might provide a lawful method to eliminate the current incentives for offering unlawful rebates. However, to date, no such revisions have been filed.

GENERAL SUBMITTED QUESTIONS

Question: Concerns have been expressed over the past few years about the backlog of applications for television translators and low power television. This has had a particular impact on rural areas. What steps has the Commission taken to correct this problem and what will you be doing in the future?

Answer: The corrective measures taken by the Commission to expedite implementation of the low power television service are set forth in detail below.

- Computer for Technical Processing:
  - A DEC Mini-computer and associated hardware purchased specifically for LPTV has been received by the Commission.
  - January, 1983: Installation of DEC computer and hardware accomplished; development of programs necessary to inaugurate technical computer programming underway; debugging of computer runs on rented computer space commenced and now continuing.
  - June 1, 1983: Completion of all projects that will permit the DEC computer to be operational.
- However, a substantial and serious problem is presented by the incomplete FCC data base pertaining to the approximately 5,000 existing translator licensees. Detailed technical information is required regarding these licensees in order to ascertain their protected contours and thus where low power television stations may be placed. A further data base related problem centers around the 4,000 pending LPTV applications that have specified directional antennas. For these applicants we need a polar diagram of the proposed radiation patterns of the directional transmitting antenna. Only with this information can we make the most efficient use of the spectrum. In addition, a review of numerous pending applications for full-service stations and that of full-service licensees and permittees is required, in order to determine their respective antenna patterns. This information is necessary in order to compute protected contours for these facilities.
- Special task forces have been allocated to the above data base projects. We emphasize that these projects are absolutely essential to computer processing. A time delay is inherent in these projects because they involve securing information from licensees, permittees and applicants and then processing that information.
- The task force has sent letters to 3,400 licensees and permittees requesting assorted technical information, including radiation patterns and related antenna information. This mailing resulted in minimal response. Thus, a second mailing to approximately 2,200 unresponsive licensees and permittees was completed. Failure to submit the required information may result in a modification of the licensee's or permittee's protected contour, for lacking the necessary information a specified protected contour will be assumed. Further, approximately 200 letters have been sent to pending applicants requesting the submission of a polar diagram of the proposed radiation pattern of their directional transmitting antennas.

- Lottery:

  - January, 1983: Preparation of lottery computer program; detailed analysis of the necessary computer software/hardware underway.

  - April, 1983: Following proposed adoption of lottery procedures, equipment necessary for the conduct of lottery will be procured.

- Further, the 8,000 applications now pending, do not for the most part, contain the necessary information to assess the minority and diversity preference factors. This information is not required by the present application form nor by the old translator application form used by most of the early LPTV applicants. It is expected that once a lottery group has been technically defined, those participants will be given a set period of time within which to inform the Commission of preference factors.

- After the DEC computer is operational, those applicants that are not mutually exclusive will be identified. If they are found to be in compliance with the Commission's technical and legal requirements, they will be granted. Based upon our experience thus far, however, we expect that the number of non mutually exclusive applicants will be limited. All mutually exclusive applicants will be subject to the lottery procedure.

- LPTV/Translator Application Form:

  - January, 1983: Preparation of revised LPTV and translator application form to ascertain information relating to lottery preference factors.

  - March, 1983: Revised forms submitted to Commission for approval.

- In summary, the Commission is on target for technical computer processing by June 1, 1983. At that time we will be able to identify and return those pending applications interfering with existing translators and with full service facilities. Thereafter, groups of mutually exclusive applications will be identified and the appropriate lottery procedures implemented. This effort will continue through FY 1983 and thereafter.

Question: The FCC instituted a fee schedule in the early seventies which was subsequently overturned in a court action. The authority for these fees derived from the Independent Offices Appropriations Act of 1952.

Based on the guidance given in the relevant court decisions, can't the FCC again etablish a reasonable fee schedule, especially in view of the fact that the Federal Energy Regulatory Commission is beginning to do so?

Couldn't a fee system fund up to half the Commission's activities?

Please provide the Committee copies of the relevant court decisions as well as a point-by-point discussion of the courts' objections and possible alternatives based on their reasoning.

Answer: Although the Commission continues to have legal authority under the Independent Offices Appropriation Act to impose fees for services that it performs, the calculation of a schedule of fees that would be consistent with the guidelines established by the Supreme Court and the court of appeals would be an enormously complex and time consuming task. The adoption of new fees would have to be done through a rule making proceeding, and any subsequent amendment of the schedule to reflect new services or increased costs would also have to be done through rule making. Moreover, any decision to adopt new fees or to change the amounts of previously adopted fees would be subject to judicial review.

We would wish to emphasize, however, that the rulemaking process, as prolonged as it might be, is not the principal impediment to establishing fees administratively. An examination of the pertinent case law, copy below, suggests the many very precise determinations about the costs and benefits of its rules the FCC would be required to make to implement the fee. These difficulties are exacerbated by the additional fact that the FCC, unlike most other agencies, regulates a myriad of different services and, accordingly, performs more and different functions than most other agencies. For example, in developing its fee refund program, the Commission found that it had imposed more than 350 different types of fees under the fee schedule adopted in 1970 and modified in 1975. The subsequent inauguration of a host of new services, including DBS, cellular radio, DTS, and low-power television, would make the fee-setting process substantially more complex than it was a decade ago.

Yes, a fee system could fund up to half the Commission's activities. Assuming the Commission could adopt a fee schedule that would survive judicial review, there is no reason to believe that it could not collect amounts that reimburse the government for half the Commission's appropriation.

Detailed Analysis

The FCC first established fee schedules under the Independent Offices Appropriations Act of 1952 (IOAA), 31 U.S.C. 483(a), in 1963, 34 F.C.C. 811 (1963), initially making only nominal charges for filings with the agency that produced revenue equivalent to approximately 25 percent of its annual appropriation. See 21 F.C.C.2d 502, 503 (1970). In 1970, in response to congressional and executive branch pressures to adopt higher fees that would make the FCC more self-sustaining, the agency amended its fee schedule, 23 F.C.C.2d 880 (1970). The 1970 fee schedule adopted fee amounts designed to recover the FCC's total budget at that time.

The annual fees assessed by the 1970 fee schedule against CATV systems were struck down by the United States Sureme Court on March 4, 1974, in National Cable Television Ass'n v. United States (NCTA v. U.S.), 415 U.S. 336 (1974). That case and a companion case decided the same day, Federal Power Comm'n v. New England Power Co., 415 U.S. 345, established standards that agencies must meet in order to charge fees under the IOAA.

In NCTA v. U. S., the court found that the FCC's CATV annual fee was calculated to reimburse the total cost (direct and indirect) to the Commission of regulating the cable television industry, regardless of whether or not each individual operator had received any "special benefit" from that regulation. Holding in effect that it was the intent of the IOAA to require fees to be based on "value to the recipient" and not upon "public policy or interest served [or] other pertinent facts," 415 U.S. at 341, 342-343, the court found that the FCC's failure to use this measure made the assessment a tax which the agency had no power to levy. In effect, the court eliminated from the IOAA the words "public policy or interest served." As a result, the statute authorizes the head of each agency by regulation to prescribe fees taking into consideration ". . . direct and indirect cost to the Government and value to the recipient."

In the New England Power case, the Court further declared that the "special benefit" concept requires some nexus between the agency and the person assessed other than the mere fact of regulation or the adoption of some practice of general benefit to the industry as a whole. Quoting with approval a Bureau of the Budget Circular which interprets the IOAA (Budget Circular No. A-25, issued Sept. 23, 1969), the court held that "no charge should be made for services rendered, 'when the identification of the ultimate beneficiary is obscure and the service can be primarily considered as benefitting broadly the public interest.'" 415 U.S. at 350. These cases constitute the only Supreme Court interpretations of the IOAA, and taken together with the statute they set the standard against which the Court of Appeals for the District of Columbia Circuit subsequently measured the FCC fees at issue in cases decided on December 16, 1976.

After the 1970 fee schedule had been invalidated by the Supreme Court, the FCC suspended collection of the annual fee for cable television systems and broadcast stations, 46 F.C.C.2d 12 (1974), stating that the appropriate annual fees for calendar year 1973 would be published after further proceedings. The FCC also ordered refund of all cable television annual fees collected pursuant to the 1970 schedule. 49 F.C.C.2d 1089 (1974). On January 15, 1975, the FCC adopted a revised fee schedule to be effective March 1, 1975. 50 F.C.C.2d 906, 924 (1975).

In December 1976 the United States Court of Appeals for the District of Columbia Circuit issued four related decisions remanding to the FCC several of its orders involving the collection of fees from FCC regulatees. They are: (1) National Cable Television Association, Inc., et al. v. FCC (NCTA), 554 F.2d 1094 (D.C. Cir. 1976); (2) National Association of Broadcasters, et al. v. FCC (NAB), 554 F.2d 1118 (D.C. Cir. 1976); (3) Capital Cities Communications, Inc. et al. v. FCC (CCC), 554 F.2d 1135 (D.C. Cir. 1976); and (4) Electronics Industries Association, et al. v. FCC (EIA), 554 F.2d 1109 (D.C. Cir. 1976).

The Court of Appeals directed the FCC to establish a proper justification for its fees, to explain the basis for the fees, to recalculate the fees accordingly, and to refund any excessive amounts collected under the 1970 and 1975 fee schedules. Shortly thereafter, the FCC announced it was suspending the collection of all fees effective January 1, 1977.

The FCC must meet the following criteria in order to promulgate a fee schedule that will comply with the remand orders of the United States Court of Appeals for the District of Columbia Circuit:

First, the FCC must separate regulatees who pay fees into "the smallest practical unit," EIA, 554 F.2d at 1116. The court stated that,

> in most cases, we expect this unit will be classes of carriers or applicants or grantees or services which the Commission has already singled out for separate treatment in its 1975 fee schedule.

The court said that ". . . the solution is not to group dissimilar entities together." The court further indicated that, if it is feasible, the FCC may permissibly separate classes among, for example, carriers, services and activities. With respect to activities, the court noted that one permissible classification would be for ". . . those individuals whose applications and acts require hearings." For example, a regulatee who applies to the FCC for a permit to extend lines under 47 U.S.C. § 214 (1970) may properly be placed in two separate classes that do not overlap and, therefore, avoid duplication of charges. NCTA, 554 F.2d at 1100. The first class would be for all those applicants seeking extension of lines. The second class would be for all those applicants who require hearings. The first class would be expected to pay the FCC fees that reimburse the agency for, inter alia, ". . . the mechanical handling of the paper. . ." incident to the application for extension of lines. EIA, 554 F.2d at 1117 n.17. The second class would be expected to reimburse the agency for ". . . a substantial portion of the expenses of the administrative law judges and certain hearing expenses. . . ." Id. at 1117.

Caution should be exercised to insure that the payor of a fee is "identifiable." EIA, id. at 1114. To state this requirement another way, ". . . no fee should be charged to a private party 'when the identification of the ultimate beneficiary is obscure and the service can be primarily considered as benefitting broadly the general public." Id.

Second, the FCC must calculate the cost basis for the services provided to each class of regulatees. The FCC must identify ". . . the activity that justifies each particular fee it assesses." NCTA, 554 F.2d at 1100. To accomplish this, the FCC must examine its internal necessary expenses and, with respect to each class of regulatees serviced ". . . set forth the maximum particularization of costs it can conveniently make . . . ." EIA, 554 F.2d at 1116. In this regard, the court stated that

> the FCC can include in the cost basis of its fees only those expenses which the agency incurs to confer value on the payor. In National Cable, [the court] explained that

> the 'value conferred' measure of a valid fee means that the fee assessed cannot exceed the cost of the service rendered. Id. at 1114.

Included among necessary expenses are those which the FCC incurs in order to assist persons to comply with their statutory duties such as the "mechanical handling of the paper." Id. at 1117 n.17. The necessary expenses may include both "direct and indirect . . ." costs that the FCC incurs in providing specific services to each regulatee in a particular class. Indirect costs may include overhead expenses ". . . incurred in maintaining a competent staff to perform the essential service when it is furnished [even though the payor] may make little use of that service," id at 1117. Direct contact with the FCC is not necessary in order for a person to be charged so long as the recipient can be identified by the FCC as being among a particular class that benefits ". . . from specific services or agency expenditures which protect their operations." NCTA, 554 F.2d at 1101, 1102.

Examples provided by the court of improper standards to measure direct and indirect costs include but are not limited to: (1) the convenience of not facing competing applicants, since this measure is not related to the costs of services furnished by the FCC. CCC, 554 F.2d at 1138. If anything, the court observes, the absence of competing applicants would keep FCC costs at a minimum and tend to reduce the cost basis of a particular fee; (2) the consideration for the sale or transfer of a license, since that results in a tax that is based on "value derived" by the recipient. Id.; (3) the values created by licensees out of their licenses, NAB, 554 F.2d at 1118 n.28, because that results in a tax that, again, is based on "value derived" by the recipient; and (4) probably the number of subscribers, viewers, or listeners of a regulatee, or the gross revenues of a regulatee because that may result in a tax. NCTA, 554 F.2d at 1108.

The FCC must be sure to exclude from its calculations expenses it incurs to serve an independent rather than an incidental public interest. By only charging for the necessary services, the FCC might be able to satisfy this requirement. In EIA, 554 F.2d at 1117 n.17, however, the court did indicate that the expenses of the FCC's trial staff might be subject to exclusion.

The FCC must make a public explanation of the aforementioned specific direct and indirect expenses included in the fee it intends to assess against each class of payor. The agency must explain the criteria used to include or exclude particular terms so that, if the fees are challenged, the court can determine if the FCC acted properly. NCTA, 554 F.2d 1104. The court indicated that

> the FCC is required to show the particular costs which they are assessing against the recipients [payors of an 'individual fee'] so as to assure them that they are paying only for the specific expenses which are incurred in connection with the services of granting them their operating authority. Id. at 1104-05.

Third, with respect to each particular fee, the FCC must apportion the remaining particularized necessary costs against the members of the class to be assessed that fee. The costs assessed against the members of each class

> . . . may include a pro-rate share of any expenses for regulatory activities which are necessary in order to grant [in this instance, a certificate of compliance under 47 C.F.R. § 76.11(a) (1957)], but cannot include those expenses independently required to protect the public. NCTA, 554 F.2d at 1101.

In the two summaries provided to assist the FCC in establishing a valid fee schedule, EIA (554 F.2d at 1117) and NAB (554 F.2d at 1133), the court required that the FCC set a fee for each class which "reasonably reflects" the cost of services performed or value conferred upon the regulatees of each class. Again, in EIA (554 F.2d at 1114) the court stated that the "value conferred" measure of a valid fee means that the fee assessed cannot exceed the costs incurred by the FCC in rendering necessary services to the members of the class concerned.

The court requires that the fee to be assessed against the members of a particular class reasonably reflect the costs incurred by the agency to provide necessary services. The court emphasized:

> It should also be stated that we are not requiring exact calculations, just reasonable approximations. The ability to recoup both 'direct and indirect costs to the Government' [language of the IOAA which remains valid after NCTA along with the value to the recipient standard] does allow for some range and latitude in effecting a reasonable attribution of costs. NAB, 554 F.2d at 1129 n.28.

In NCTA (554 F.2d at 1105), the court criticized the FCC's method of formulating the 1975 annual authorization fee. The FCC began with its total budget and eliminated whole offices or activities which it found to be too far removed from the direct regulatory function. Cable television operators were assessed the total cost of operating the Cable Television Bureau plus a pro-rata share of certain general support activities, all multiplied by an unexplained 44.6 percentage. The court indicated that the 44.6 percentage must be explained, suggesting that a ". . . time cost study explanation . . ." would be useful in explaining ". . . why 44.6 percent was chosen to represent that portion of the previously calculated total costs which could be recovered through a fee. Perhaps, most importantly, there was no explanation of the criteria used in eliminating certain costs and retaining others." The court then concluded that the Commission had gone at its task backwards, starting with totals and eliminating items, rather than selecting expenses directly or indirectly related in a significant degree to the particular service justifying assessment of the fee, and then adding such items.

> This is not to say that the Commission must calculate the exact cost of servicing each individual; that would be an all but impossible task. Any computation such as those must necessarily be based on numerous approximations and can only be expected to be accurate within reasonable limits. It is sufficient for the Commission to identify the specific items of direct or indirect costs incurred in providing each service or benefit for which it seeks to assess a fee, and then to divide that cost among the members of the recipient class (here, Cable operators) in such a way as to assess each a fee which is roughly proportional to the 'value' which that member has thereby received. NCTA, 554 F.2d at 1105, op. pp. 23-24.

The court stressed that ". . . If a fee is calculated in a proper manner, it should be a reasonable approximation of the attributable costs which the Commission identifies as being expended to benefit the recipient. . . ." Id at 1106.

The court also offered a few thoughts concerning appropriate ways to apportion costs among members of a recipient class. The most extreme method of apportioning costs, in terms of expense and time involved, would be to calculate the exact cost incurred by the FCC to service each individual class of recipients. The court, instead, notes that the FCC may ". . . probably reasonably justify a minimum fee for small stations, and may well be able to demonstrate increases in the cost of regulating cable systems as the number of subscribers grow." The court does, however, observe that if an annual fee is established on a per-subscriber basis, then ". . . economies of scale might result, making the persubscriber cost of regulation less for a larger system (even though the total fee for that system might be greater). . . " NCTA, 554 F.2d at 1108.

The FCC may use a ". . . fee base with inherent ability to pay features if such base also reasonably reflected varying cost factors that benefited individual recipients. . . ." Id. at 1109. The court cautions, though, that

> Ability to pay is frequently used as a justification for levying a tax but is of very limited value in assessing a fee which is supposedly related as closely as reasonably possible to the cost of servicing each individual recipient. Id.

With respect to how the FCC might be able to devise a fee schedule comprised of fees that reflect consideration of economies of scale for larger regulatees, minimum fees for smaller regulatees, and inherent ability to pay features for impecunious regulatees, the court suggests that for each category of service, the FCC may wish to develop a ". . . sliding scale using a proper measure — i.e., the cost of work performed. . . ." The court hesitates, though, stating: "Whether it is feasible to separate the Commission's activities into various classes based on increasing costs and complexity, we do not know. If the agency can do so, such a fee schedule would be valid under the statute." EIA, 554 F.2d at 1116.

The Court of Appeals provided no guidance to determine how to exclude from the cost basis for each fee assessed any expenses incurred to serve an independent public interest. However, it appears from the decisions that FCC need not attempt to determine quantitatively exactly how to measure an independent public interest. Instead, it may be sufficient for the FCC to charge for necessary services. That is, the FCC may assess fees to reimburse the agency for costs incurred in assisting persons to comply with their statutory duties. In so doing, the FCC might remain within the scope of a permissible cost basis for a fee.

Justice Douglas, writing for the majority in the Supreme Court's NCTA v. U.S. decision, focused attention on distinguishing between a fee and a tax. He held that taxation is a legislative function that may be based solely on ability to pay without regard to "benefits bestowed" by the Government. A fee, however, is incident to a voluntary act on the part of the payor; and the public agency performing those services normally may exact a fee for a grant which "bestows a benefit on the applicant, not shared by other members of society." NCTA v. U.S., 415 U.S. at 340-41. Justice Douglas cautioned that it would be impermissible to assess a fee against members of an industry to recoup the FCC's costs for its oversight in safeguarding the public interest. Id. at 341.

First, he stated that the private payor must be "identifiable." No fee should be charged to a private party "'when the identification of the ultimate beneficiary is obscure and the service can be primarily considered as benefiting broadly the general public.

Second, a fee can only charge ". . . for those expenses which are necessary to service the applicant or grantee. Expenses incurred to serve some independent public interest cannot, under NCTA be included in the cost basis for a fee, although the Commission is not prohibited from charging an applicant or grantee the full cost of services rendered to an applicant which also result in some incidental public benefits." EIA, 554 F.2d at 1115.

The court then provided a hypothetical example in which it explained that a fee can be assessed for tariff filings and for equipment testing since both activities are ". . . required by statute, and the FCC is entitled to charge for services which assist a person in complying with his statutory duties. . . ." Id.

> Tariff filings are required by 47 U.S.C. § 203(a) (1970). . . . Similarly, equipment certification, acceptance, and approval is required by 47 U.S.C. § 302a (1970) and 47 C.F.R. § 2.803 (1975) . . . Other commission fees . . . can be justified by the statutory requirement of a permit for construction of new or extended lines or the discontinuance of service by a common carrier, 47 U.S.C. § 214 (1970), and by the requirement of an operating license and station construction permit under 47 U.S.C. §§ 301, 319 (1970). Id. at 1115-16.

In NCTA (554 F.2d at 1101) the court stated that the ". . . issuance of a certificate of compliance under 47 C.F.R. § 76.11(a) is a service rendered by the FCC to the cable operators, and the agency is fully justified in seeking reimbursement of any expenses incurred in performing that service. . . ." This statement indicates that necessary expenses may also include those that the FCC incurs in complying with duties required by regulations set by the FCC not specifically required by statute. Further, the court in NCTA (554 F.2d at 1107) stated that the FCC could include in its cost basis for each fee assessed ". . . those attributable direct and indirect costs which the agency actually incurs in regulating (servicing) the industry. . . ." Accordingly, a reasonable interpretation of the court's holding is that the FCC may seek reimbursement for expenses it incurs to assist a person in complying with his statutory and regulatory duties.

The Court of Appeals did state that the FCC ". . . is not limited to charging for activities that are beneficial to an applicant, but can include in its fee the cost of any service that is necessarily rendered to him. . . ." ENIA, 554 F.2d at 1117 n.17.

The Court of Appeals indicated that there might be one limitation to the inclusion of the cost of all hearings in the cost basis of the fees for each bureau. The holding of Alyeska Pipeline Service Co. v. Wilderness Society, 421 U.S. 240 (1975), may preclude charging the expenses of the FCC's trial staff to opposing litigants. Further, the court indicated that ". . . the trial staff presumably represents an independent public interest, and some of all of their expenses might therefore be excluded from the basis of the fees. . . ." EIA, 554 F.2d at 1117 n.17.

In an attempt to make the distinction between a permissible fee and an impermissible tax, the court stated:

> In order to assure this required relationship between the fee-rate and the services rendered, as we interpret the Supreme Court opinion, the agency must look not at the value which the regulated party may immediately or eventually derive from the regulatory scheme but at the value of the direct and indirect services which the agency confers. This means, for example, that a fee, in order not to be a tax cannot be justified by the revenues received or the profits which cable operators have made from their franchises, but must be reasonably related to those attributable direct and indirect costs which the agency actually incurs in regulating (servicing) the industry. Tangential costs that bear no nexus to the service rendered cannot be recovered by citing the benefits derived by the beneficiaries from their operation of their licenses. . . . (Emphasis in original.) NCTA, 554 F.2d at 1107.

Hence, the phase "value conferred" is to be distinguished from "value derived" just as a fee is to be distinguished from a tax. Having drawn this distinction, however, the court leaves specifically unanswered how one might measure "value conferred." Instead, the court indicates that a proper rate is one that reasonably reflects a proportion of costs necessarily incurred by the FCC.

> The concurrence also states that it does not read NCTA as requiring 'the proportion-of-cost basis' as the only acceptable method of determining a fee. That may well be so. It may be possible that a proper fee may be fashioned on other lines. . . . The fee must bear some reasonable relation to the cost or it ceases to be a fee and NCTA does indicate that it cannot go beyond being a 'fee.'
>
> * * * * *
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> As to whether it is possible under NCTA to promulgate 'value to the recipient' fee schedules not initially

related to costs, we express no opinion. NAB, 554 F.2d at 1129 n.28.

Question: I appreciate the fact that the FCC is helping to hold the line on Federal spending by projecting marginal increases over its base level. However, I note that thirteen workyears are saved by a decrease in the number of Commissioners from seven to five. This is offset by an increase of thirteen workyears in other areas.

What is the justification for offsetting the reduction, rather than providing a net loss of workyears?

Answer: The Commission will be able to fund 1,859 workyears in FY 1983. In FY 1984 we are not requesting any additional personnel resources and are holding the line on the total number of workyears we estimate that we can fund within our budget. The distribution of workyears in FY 1983 was based on the projected distribution of personnel at the time of the preparation of this budget. This distribution was then modified for the expected filling of vacancies where an Activity was below strength and for the expected attrition where an Activity was above strength. This distribution for FY 1983 ,however, was not the base for our estimate of workyear distribution among Activities for FY 1984. For FY 1984 we first assumed that workyears would equal full-time permanent positions (1,896) and then prorated a reduction to reach the lower level of workyears which can be funded. We expect that the differing methods used in FY 1983 and FY 1984 will provide accurate estimates for these years.

Question: For the past few years, the Commission has been operating under a Management by Objectives style of management. Briefly, how does this work and has it resulted in greater efficiencies at the FCC?

Answer: Management-by-Objectives (MBO) was selected as the appropriate management system for the Commission for a number of reasons. First, MBO is a result-oriented system. Managers are required to focus on where they are headed and how they plan to get there. End results must be identified because only by achieving results can an agency be considered to be effective.

Second, MBO provides an organized system for establishing priorities and determining resource allocations. This is important because it provides a framework for addressing the many complex issues with which the Commission must deal. It will also help identify previously neglected areas.

Third, MBO encourages strategic planning. The FCC has been criticized in the past by GAO and Congress for the lack of long-range planning. The Commission's MBO objective-setting time frame extends over three years.

Fourth, a properly designed MBO system provides the mechanism for regular feedback on accomplishments. MBO provides a means for recognizing successful operations and for correcting misguided efforts.

Lastly, MBO fosters increased productivity. There are several basic reasons for this. First, MBO facilitates communication of agency objectives and priorities. Thus, managers and employees throughout the organization gain a better understanding of what is expected of them. Second, it encourages a higher degree of employee commitment to organizational objectives because employees at all levels in the organization participate in the definition of their own responsibilities.

When appointed, the Chairman developed five basic objectives that were approved by the other Commissioners. The objectives became the foundation of the Commission's MBO system. They are:

I. To create, to the maximum extent possible, an unregulated, competitive marketplace environment for the development of telecommunications;

II. To eliminate unnecessary regulations and policies;

III. To provide service to the public in the most efficient, expeditious manner possible;

IV. To promote the coordination and planning of international communications which assures the vital interests of the American public in commerce, defense and foreign policy; and

V. To eliminate government action that infringes upon the freedom of speech and the press.

These five basic objectives guide overall Commission effort. They are sufficiently general to give each bureau considerable latitude and flexibility in developing their own objectives and action plans. Also, the process of setting objectives has been kept as simple as possible so bureau and office chiefs can adapt the system to their own particular needs.

The scheme adopted is essentially a "top-down, bottom-up" process. Each bureau and office develops a set of objectives in relation to the five overall Commission objectives. Then each division responds to the bureau chief's objectives and develops a set of its own.

At the next level down, branch managers and supervisors develop objectives and specific plans of action which include milestones, target dates and work standards. The action plans then filter back up to the division and bureau levels.

Finally, meetings are held between the bureau chiefs and the Chairman. Together they review drafts of their objectives and action plans. This dialogue provides an opportunity for the Chairman to provide direction to and receive feedback from his executive managers. The Chairman then personally approves all bureau objectives, action plans and priorities.

The Commission moved rapidly into the MBO environment. Traditional MBO practitioners would advocate for much slower implementation schedule. We acknowledged their cautions, but we had a mandate for change and for improvement. We substantially compressed the time normally expected to implement an MBO system. Although there were risks involved in this implementation process, the Commission attained a successful system much sooner than would have otherwise been possible.

Of course, a management system of this scope cannot be completely installed in just one year. The Managing Director is continuing to research and design improvements in the current system. These efforts are producing a more efficient and effective MBO system.

The MBO system has allowed us to systematically track agency activity. For FY 1983 we required "stretch" in each bureau's and office's MBOs over their FY 1982 MBOs. Each bureau and office responded. For example, our overall rulemaking activity for the first quarter of FY 1983 exceeded the average quarterly output for FY 1982. As another example, we have drastically reduced speed-of-service for our private radio services. More importantly, through MBO reporting we are able to plan, to set priorities to identify problems and to take corrective action.

Question: The General Services Administration has manadated an increase of $3,215,000 for Standard Level User Charges, or rental payments. This represents an increase of almost 50% for FCC headquarters rental, as you note in your statement. What justification does GSA give for the increase, and do you believe it is warranted?

Answer: The General Services Administration transmitted our FY 1984 Federal Buildings Fund (FBF) budgetary requirement for the Standard Level User Charge (SLUC) in April 1982. Our FY 1984 requirement, an increase of $3,215,000 over current SLUC rates, is based on an average rate calculated from rental rate data grouped according to Standard Metropolitan Statistical Areas. The rental rate data was consolidated by GSA through recent appraisals of equivalent commercial rental properties in the Washington, D.C. area. Public Law 92-313 requires the GSA administrator to charge rates which "approximate commercial charges for comparable space and services" in the private sector. The Fair Annual Rental (FAR) appraisals conducted of Washington, D.C. office space situation resulted in increases in our rental charges which directly relate to changes in the commercial rental market, the economy, and increases in land values, property taxes, interest rates, energy and other operations costs. As a result, our FY 1984 GSA SLUC rate for our Headquarters building has shown a radical increase over the FY 1982 and FY 1983 rates.

Although the basic lease charge to GSA by Charles E. Smith is approximately $17.00, slightly more than $7.00 less per square foot than that which is being charged us through GSA, we believe the increase in our FY 1984 SLUC rates to be warranted because neighborhood rates are equivalent or somewhat higher than our existing SLUC rates. The following chart summarizes the various rates:

FY 1984 FCC SLUC Rate	Charles E. Smith Basic Lease Charge to GSA	Range of Neighboring Rates
$24.24/sq.ft.	$16.98/sq.ft.	$22.00-$42.00/sq.ft.

Question: How do the projected costs per square foot for SLUC fees in fiscal 1984 compare with similar private sector space available new the FCC headquarters building?

Answer: The projected costs per square foot for SLUC fees in FY 1984 appear to be competitive with available private sector office space rates in the local area. The chart below lists several buildings near the FCC headquarters and the current cost per square foor. (Source: Regardies, February, 1983 issue).

Address	Rate per Square Foot
1630 Connecticut Ave.	$22-25
1660 Connecticut Ave.	$22
21st & P Streets	$25
1330 Connecticut Ave.	$35-$40
2000 M Street	$24
2030 M Street	$24
17th & M Streets	$29-$30
17th & M Streets	$35-$42

Question: An increase is requested in international travel funds. How does the FCC view its role in the coordination of international telecommunications policy? Which agency does the FCC consider as the proper voice of the international telecommunications policy of the United States? Does the FCC coordinate its activities in this area with NTIA and the State Department?

How does this coordination occur? Describe in detail the substance and timing of such coordination over the past year.

Answer: The Commission is a primary participant in the formulation and coordination of United States policy with regard to international telecommunications matters. While the Department of State is charged with the responsibility of establishing official U.S. Delegations to formal meetings and conferences on international telecommunications, not all meetings and conferences are the same. The nature of a particular conference or meeting usually determines the resource contributions required of the three primary participants (FCC, NTIA, Department of State). In some cases, the Commission may be the lead agency for a conference, and may even provide the individual to head the official U.S. Delegation. In other cases, the Commission's participation may be somewhat less: providing technical and/or regulatory expertise. In any event, all three agencies coordinate their preparations for and attendance at international conferences and meetings.

With respect to a telecommunications matter not necessarily connected to a specific conference or meeting, and depending on the nature of the particular matter at issue, the Commission may well be the "proper" voice of international telecommunications policy for the United States. If the issue is regulatory or technical in nature, and/or affecting U.S. telecommunications interests within the ambit of Commission jurisdiction, the Commission is the appropriate spokesman. If the issue involves foreign policy or national defense interests, the Executive Branch, through the Department of State, is the more appropriate spokesman. If the issue deals with U.S. governmental spectrum use, then NTIA is the more appropriate spokesman. However, the issues are not always so clearly defined. Consequently, coordination of international telecommunications policy between the Commission, NTIA and the Department of State is the approach taken.

Coordination occurs at various levels, and often involves additional agencies (such as: DOD; NASA; USTR; BIB; etc.). During the past year, there have been semi-regular meetings of the Coordinating Committee for Future Radio Conferences. This Committee was formed by the Department of State, with participation by agency officials (including FCC, NTIA, and State) most involved in the day-to-day preparatory Conference Work. There have also been semi-regular meetings of the Senior-level Interagency Group on International Communications and Information Policy (SIG), chaired by the Department of State and vice-chaired by NTIA. The SIG considers final U.S. proposals and positions for major international conferences and meetings, as well as making decisions and coordination that cannot be resolved at a lower level. Additional coordination is effected through NTIA's Interdepartmental Radio Advisory Committee (IRAC) and its Ad Hoc working groups, especially concerning technical and spectrum management matters, with participation by the FCC and major Government agencies which utilize spectrum. Matters coming before these groups for coordination during the past year include: preparations and positions for the ITU Plenipotentiary Conference; preparations and proposals for the 1983 World Administrative Radio Conference on the Mobile Services (Mobile WARC); preparations for the 1983 Conference on Broadcasting Satellite Services for Region 2 (BSS-RARC); preparations and positions for the 37th Session of the ITU Administrative Council; and preparations for the 1984 Conference on High Frequency Broadcasting Services (HF-WARC).

Additional coordination of U.S. international telecommunications policy has taken place through various FCC proceedings soliciting public comment on upcoming conferences, through public advisory committees established to provide input to government preparations, and through participation on official delegations' preparatory activities.

Question: FTS charges are increased by $270,000. Does this represent an increase in use or an increase in the base cost, or both? How does this compare with FTS costs over the past five fiscal years?

Answer: The increase in FTS costs is comprised of an overall 6% general increase estimated by GSA and an approximate 2% increase for known regulatory increases. The major contributing factor to our requested increase, however, is based on the Commission's overall usage of the Intercity Network. Our FY 1984 requirement is based on GSA's estimate of our time sensitive minute usage. Although our actual usage of the Network has been declining since FY 1982, according to GSA, other users of the Network have reduced usage even further. As a result, the Commission now uses a larger percentage of the total Network, hence our increased costs. Our FTS cost for the past five years are as follows:

FY 1979	$346,000
FY 1980	$369,000
FY 1981	$516,000
FY 1982	$720,000
FY 1983	$780,000

Question: $260,000 is requested for microcomputers at each of the Commission's field offices. How would these microcomputers be used? What would be the projected cost reductions associated with decreased use of the mainframe computer in D. C.? What increases in efficiency would occur?

Answer: We are planning to have twenty microcomputers purchased late in FY

1984 with the requested $260,000 and the rest early in FY 1985 to spread the cost evenly over the two fiscal years.

Numerous systems have been identified as network program candidates, including the following:

- electronic mail
- unattended message switching
- work processing/text editing
- violations: print violation notices and store the data for a local data base and as transaction input to the Field Validation Notice system at HQ
- intermodulation analysis
- feedback to the other bureaus and the Commissioners
- time and attendance
- status reports to HQ
- list of inspections done by the office (local)
- list of complaints (local)
- cost accounting
- trip planning (local)
- local licensee data searches

These microcomputers will be able to do word processing. The field staff will be able to prepare messages, memoranda and long reports locally, without making long-distance calls.

Not only will the field be able to prepare documents more economically, but it will also be possible for these documents and messages to be transferred back and forth to Headquarters automatically during off-hours, after 5:00 p.m., when FTS lines can be used at no cost.

These microcomputers also will have a data base management system. Small data bases of local ship inspection logs, travel records, minor case files, cost accounting data, etc., will be set up and maintained by the field staff, without extensive programming. For example:

> - Many offices do ship radio inspections, which frequently involve travel. A boat owner will call an FCC office and request an appointment. If the marina is several hours travel time away, it would be cost-effective to do more than one ship inspection at the same time. If a ship inspection file were on a local computer, looking up boats at a particular marina or even between the field office and the marina to see which are due for ship inspection would be relatively easy. It could easily contribute to a savings of employee time and travel funds, as well as providing better service to the licensees by decreasing delays or the problem encountered if an inspection date slips by.

All these capabilities are currently available on similar microcomputers at Headquarters.

Benefit:

Tangible
- violations: 1/2 workyear per year at HQ
- reduce long distance connect charges to the computer: $35,000/yr (Unattended message switching can be done at hours when FTS is free.)

Intangible
- improvement to efficiency
- better information from the public and the field to FCC to aid in FCC decision-making
- better internal planning
- improved use of resources

According to current usage figures, the annual cost of FTS data communications service will be about $128,000 per year. The assumption was made that field personnel spend half of their time entering data into and reading it back from the Honeywell text editor, so if 20 office had a microcomputer with a work processing system and a message transfer capability, the savings would be $35,000 a year.

With some issues (LPTV is a current one) public opinion can be very important. When systems are set up on field office microcomputers to record the number and types of comments, it will be possible to provide immediate and up-to-the-minute data to the Commission on public opinion and comment.

The benefit of "improved use of resources" include being able to schedule several ship inspections for one trip without searching for hours through folders or tickler files, and not having to make numerous revised submissions of Time and Attendance reports, etc. These improvements, although grouped with the intangible benefits, would save money, but no one knows how much would be saved as we have no system to track travel, employee time, etc., being duplicated, and thus in effect wasted, because the field does not have the right tools with which to work.

The Field Operations Bureau desires to take advantage of the progress in information technology both in the marketplace and within the FCC to enable our offices that directly serve the public to do more as the number of our employees remains the same.

Question: Six additional workyears are anticipated for authorization of service in the Mass Media activity. Where would this effort be concentrated?

Answer: Approximately four additional workyears represent annualization of the FY 1983 new positions authorized for the new Low Power Television service in the Video Services Division, Mass Media Bureau. Three additional workyears are allocated in the Audio Services Division, Mass Media Bureau as follows: two to the FM service and one to public assistance (reference room). Approximately one of these seven workyears in the Mass Media Bureau is offset by reduced data processing support from the Office of the Managing Director, leaving a net increase of six workyears in FY 1984.

Question: International telecommunications activities are carried out by eight bureaus and offices. The FCC has an Assistant to the Chairman for International Communications, but he has no line authority. Given this dispersion and lack of focus, does the FCC have the ability to plan for international conferences, maintain a cohesive international structure, and establish a continuing policy on international telecommunications issues?

Answer: The position of Assistant to the Chairman for International Communications was established in June 1981 to serve as a focal point for international telecommunications within the Commission. While the operating bureaus and offices retain authority and responsibility for dealing with routine matters with other agencies, the Assistant advises the Chairman and Commissioners on international telecommunications policy developments, reports to and coordinates with the Congress on all significant matters, represents the Chairman and the Commission at meetings and conferences, and coordinates interagency activities and international conference planning.

In October 1981, the International Telecommunications Coordinating Committee (ITCC) was formed to serve as a mechanism to assist in focusing the varying international functions of the involved Commission elements. Chaired by the Assistant to the Chairman for International Communications, the ITCC is composed of the Chiefs of the operating bureaus and offices. The ITCC meets approximately every six weeks, and more often if circumstances warrant, to exchange information concerning ongoing international matters, to prepare for upcoming meetings and conferences, and to discuss strategies and approaches to particular international matters.

The position of Assistant to the Chairman for International Communications does not have integral staff resources to accomplish his functions, but draws upon the resources of the operating bureaus and offices as needed. While a particular bureau or office may have the lead with regard to a particular matter, meeting or conference - depending on the nature and context of the subject involved - all international matters are coordinated through the Assistant.

This method of coordinating international matters within the Commission, and having a designated focal point for coordination of international matters with external entities, has worked quite well. It has served to keep all Commission elements informed, enhanced the Commission's ability to plan and coordinate international matters, and provided a basis for a cohesive policy on international telecommunications issues.

Question: Describe the success of efforts to implement volunteer amateur radio testing.

Answer: The recent Communications Amendments Act of 1982, P.L. 97-259 permitted the FCC to authorize amateur radio operators to prepare and administer amateur radio operator examinations.

Two actions have been taken since enactment of P.L. 97-259. We issued a Notice of Proposed Rule Making (NPRM) in Docket 82-727 proposing to place greater reliance on amateur radio volunteers by eliminating the "mail-back" procedure for Element 2 of the written examination in the Amateur Radio Service. Instead, volunteer examiners will be permitted to prepare and administer examinations, and to certify that prospective Novice Class operators have successfully completed the examination. Also, we have initiated another NPRM in Docket 83-27 proposing to permit national amateur radio organizations to participate in the formulation and administration of the Technician, General, Advanced and Extra Classes of licenses. We expect to complete these rule makings during the latter part of FY 1983.

Question: Does the base budget of the FCC for FY 1984 include not less than $50,000 for the study of electromagnetic wave propagation in the Arctic? If not , why not?

Answer: The FCC budget for FY 1984 includes $50,000 for the study of electromagnetic wave propagation in the Arctic.

Question: At what rate will low power and translator television applications be processed by May of 1983?

Answer: Applications will be processed manually until June, as the technical data bases may not be completed until the end of May, foreclosing computer processing. Thus, application processing will remain limited to "worst case values and assumptions" which is less productive in terms of LPTV grants and more time consuming in the utilization of staff resources. The average processing time to complete those cases which fit "worst case values" is one week per application. Also limiting productivity is the fact that the applications processed during this time will include those Tier I applications (mostly rural) that were cut off under the old judgmental standards. It is estimated that the majority of these applications will not be grantable due to mutual exclusivity or interference potential.

We anticipate that the Commission will adopt final lottery regulations in late March 1983. After the regulations are adopted, the Commission will have to solicit additional information regarding preferences claimed from all pending applicants. This will require amendment of the 346 form, the Low Power TV application form, which must be approved by the Office of Management and Budget. Additionally, we will have to select a means by which to conduct the actual lotteries and procure related equipment. Because of the uncertain time involved in obtaining responses from applicants, we cannot accurately predict when we will have the preference information input into our data base of applications, ready to be used in conducting the actual lotteries. The LPTV computer should begin technical processing in June, 1983, and thereafter, the applications that have been grouped as mutually exclusive will be ready for the lottery procedure. We believe we will be able to coordinate implementation of the random selection mechanism to be available when the groups of applications are ready. Absent the issuance of a stay of proceedings by the Commission or court of appeals, the random selection procedure should be in operation before the end of 1983. Once in place, the number of lottery drawings will depend, in part, on computer capacity. Also, the "winner" will be subject to legal challenges directed to its basic qualifications by other applicants. The applicable procedures will be set forth in the Commission's lottery regulations. Initially, this process will adversely impact the actual number of LPTV grants per month. However, as the computer program and lottery process becomes better established, the initial "lag" in the numbers will no longer be evident.

Question: Please prepare for the Committee a chart which lists "1982", "1983" objectives", and "1984" objectives" on the horizontal axis, and the following six groupings on the verticle axis, as indicated:

AM receipts
AM disposals
Change (%) in backlog

FM receipts
FM disposals
Change (%) in backlog

TV receipts
TV disposals
Change (%) in backlog

FM translator receipts
FM translator disposals
Change (%) in backlog

TV translator receipts
TV translator disposals
Change (%) in backlog

LPTV receipts
LPTV disposals
Change (%) in backlog

Answer:

	FY 1982	1983 Objectives	1984 Objectives
AM receipts	4,151	3,938	3,060
AM disposals	4,402	3,734	3,569
Change (%) in backlog	-9.5%	+11.7%	-26.1%
FM receipts	4,526	4,948	4,214
FM disposals	4,127	4,346	4,121
Change (%) in backlog	+14.7%	+19.9%	+2.6%
TV receipts	1,276	1,157	1,189
TV disposals	1,464	1,166	1,184
Change (%) in backlog	-25%	-2%	+1%
FM translator receipts	677	1,022	1,094
FM translator disposals	626	1,008	1,060
Change (%) in backlog	+14.1%	+3.2%	+7.5%
LPTV/TV translator receipts 1/	4,371	19,610	10,435
LPTV/TV translator disposals	3,715	3,377	22,289
Change (%) in backlog	+8.0%	+185%	-47%

1/ These categories must be grouped together because television translators and low power television stations operate on and compete for the same spectrum and are technically the same. Low power stations may originate programming, while translators may not. However, a translator station may become a low power station upon mere notification to the Commission at any time.

Question: Describe the preparations being made for the Western RARC meeting to be held this summer, and briefly discuss those issues of importance to the United States.

Answer: The 1983 Regional Administrative Radio Conference for the planning of the Broadcast-Satellite Service (BSS-RARC) in Region 2 (the Western Hemisphere) will be held at in Geneva between June 13 and July 15, 1983. Preparations for this important conference have been underway for some time, involving many agencies, including: FCC; Department of State; NTIA; and NASA.

Initial preparations for BSS-RARC were undertaken by the Coordinating Committee for Future Radio Conferences, under the auspices of the State Department in mid-1980. The Committee decided that the bulk of U.S. proposals and positions should be formulated by the FCC because BSS was essentially a private sector service in the U.S. NTIA's IRAC Ad Hoc Group 177 has met regularly since June 1980, developing computer preparations for the BSS-RARC and keeping all agencies abreast of individual agency preparatory activities.

Commission preparatory activities were formally initiated with the release of a Notice of Inquiry (Gen. Docket No. 80-398, released July 25, 1980) requesting public comment on BSS-RARC. Two further Notices in this proceeding have since been released, seeking additional comments. Commission consideration of positions and proposals developed within this proceeding is scheduled for March 1983, followed by transmission to the Department of State for use by the official U.S. Delegation in preparing U.S. position papers for the Conference. Additionally, public input has been effected through the FCC sponsored Advisory Committee.

Former Commissioner Washburn has been designated as Chairman of the U.S. Delegation, with personal rank of Ambassador. Delegation members have been nominated (including ten from the FCC) and meeting regularly for several months. Additionally, a series of bilateral discussions with Canada and Mexico, as well as meetings within CITEL and ITU Panel of Experts are on-going in preparation for the Conference.

Issues of importance to the U.S. include planning of spectrum and orbit utilization (rigid plan v. flexible approach), compatibility of U.S. requirements with proposed plans of our contiguous neighbors (Canada and Mexico), and technical parameters selection for Region 2 BSS.

Question: Discuss the impact of cellular radio on the communications market and Commission activities and plans in this area.

Answer: Cellular radio, an entirely new type of personal, two-way communications, is expected to have a substantial impact on the communications market. There is a general consensus among potential carrier participants and industry analysts that the cellular market will range between $6 and $7 billion annually by 1990 in sales of station equipment, sales of mobile and portable telephones, and service fees. Although the price of service and equipment will be out of reach of most consumers initially, the manufacturers and carriers expect the price to decline steadily as volume and technical improvements advance. It is anticipated that the portable cellular phone will eventually replace wireline service from many business people who travel freqently. In fact, the only constraint on the potential growth of cellular to literally millions of units may be the limited availability of radio spectrum space.

Having completed its rulemaking proceeding in March 1982, the Commission set June 7, 1982, as the first application date. The Commission decided to stagger application filing dates to help manage the anticipated workload. In recognition of the more critical need for mobile telephone service in larger cities, the Commission called for applications in blocks of 30 cities (actually Standard Metropolitan Statistical Areas), beginning with the largest, through the top-90. After that, applications for all other communities will be accepted. On June 7, the Commission received 190 applications (52 for the wireline carrier licenses and 138 for the nonwireline carrier licenses) in the 30 largest SMSAs. On November 8, 1982, the second filing date, 396 (70 wireline, 326 nonwireline) applications were filed for markets 31-60; and on March 8, 1983, 567 (71 wireline, 496 nonwireline) applications were filed for markets 61-90.

On November 1, 1982, the Commission issued the first cellular construction permit and simultaneously instituted the first comparative hearing. To date, there have been 9 construction permits issued and 12 comparative hearings designated. The Commission hopes to have all the applications in the top-30 markets granted or placed in hearing by this June. While there has been no undue delay thus far, it is clear from the number of applications, amendents to applications, and related pleadings that it will take a long time to process the markets below the top-30. Nearly all the work is currently being performed by 16 professional and nonprofessional employees in the Common Carrier Bureau's Mobile Services Division and, after hearing designation, by the administrative law judges and their small staff of four professional assistants. Beginning in late-1983, the Commissioners must begin reviewing the administrative law judges' decisions, imposing a further strain on the Commission's resources.

Absent a significant infusion of resources, it is clear that there will be extensive delay in bringing these important new communications services to the public in all but the very largest cities. It is likely to be near the end of 1985 before all the mutually exclusive applications in markets 31-90 are even designated for hearing. Then, the staff of administrative law judges will have a large backlog of cases. For this reason, the Commission is asking Congress for a supplemental appropriation to process cellular applications.

Question: The Commission is currently considering rule changes which could substantially increase the number of FM radio and VHF television applications it receives (Dockets 80-90 and 80-499). What administrative impact do you expect these rule changes to have, if adopted? Does your budget request include sufficient positions to handle this workload?

Answer: FM Radio: The resource impact of Docket 80-90, if adopted substantially as set forth in the Notice of Proposed Rulemaking of February 28, 1980, would run for a period of approximately five years following the effective date of the rules. The initial impact would require four additional positions immediately (two attorneys, one engineer and one clerk typist) in the Policy and Rules Division of the Mass Media Bureau to process petitions to allocate additional stations in the Table of Assignments. We estimate that these additional positions would be required for a five-year period of time starting in FY 1984.

The current FY 1984 budget request pending before Congress does not include resources specifically designated to cover the impact of implementing the additional FM service envisioned in the Notice of Proposed Rulemaking in Docket 80-90. When the Commission evaluates the record in this Docket, it will evaluate several options with respect to resource requirements. These options are:

1) Reallocate positions and funds from within the Mass Media Bureau.
2) Request FY 1984/FY 1985 supplemental/amendment.

Beginning in the 3rd quarter of FY 1984, additional positions (over the currently proposed FY 1984 level) would also be required in the Audio Services Division to process construction permit applications and covering licenses as follows:

	Cumulative Positions 1/			Total Dollars Requirements 2/
	Audio Services	Policy & Rules	Total Pos. Req.	
FY 1984	25	4	29	$640,000
FY 1985	28	4	32	799,000
FY 1986	27	4	31	804,000
FY 1987	15	4	19	640,000
FY 1988	10	4	14	427,000

1/ These resource estimates were formulated based on estimated FY 1984 productivity rates.

2/ Includes salaries and benefits plus other objects associated with new positions.

Approximately one-third of a workyear will be required in FY 1983 for modification of computer data base update programs which will delay work on other Mass Media projects currently scheduled. An additional $18,000 will be required for six on-line VIP computer terminals.

VHF Television Channels: Up to 300 new VHF television channels could be added as a result of the pending proceeding in Docket No. 80-499. This might be accomplished by permitting stations to operate at locations separated by less distance than is now permitted, and by providing "equivalent protection" through the use of directional antenna, lower power or antenna height, or a combination of these factors. Of the potential 300 new stations, about 125 would be in the 100 largest television markets, and 175 new stations in the remaining markets (markets 101 through 212). Projecting 10 applications per channel in the 100 largest markets (10 x 125 = 1,250) and five applications per channel in the remaining markets (5 x 175 = 875), a total of about 2,125 new VHF applications must be processed. At the same time, we project that the present workload of about 300 new and major change applications per year will continue. The rate of disposition of the additional workload depends on the processing schedule. If, for example, by rulemaking or by processing practices, the workload could be spread over a four-year period (that is, at a rate of about 530 applications per year), additional staff would be required as follows:

1 engineer
2 broadcast communications specialists
4 broadcast industry specialists
3 attorneys
4 applications examiners
1 secretary

Associated with personnel costs are the necessary costs for space, furniture and equipment. If the workload is to be processed more quickly, additional resources will be required.

The current FY 1984 budget request pending before Congress does not include resources specifically designated to cover the impact of implementing the additional TV service envisioned in the Notice of Proposed Rulemaking in Docket No. 80-499. The Commission has yet to consider the many major policy and technical issues associated with adoption of the proposal. If the Commission chooses to go forward with VHF drop-ins it would be necessary to consider resource options similar to those discussed above with respect to Docket 80-90.

Question: What administrative savings have resulted or are expected to result from the merger of your Broadcast and Cable Television Bureaus into a Mass Media Bureau?

Answer: The savings that have resulted from the merger of the Broadcast and Cable Television Bureaus into the Mass Media Bureau include five administrative positions which have been reallocated to specific functions within several of the Bureau's programs. The FY 1983 merger also resulted in a reallocation of nine positions from the Enforcement and Hearing program to the highest priority program, Authorization of Service. The impact of these reallocations have been reflected in the Mass Media Activity's budget request.

Question: We understand that you recently agreed to a settlement of approximately $200,000 to a realty consultant for services provided in connection with your aborted effort to relocate your headquarters to Rosslyn, Virginia. Where were the funds to pay this settlement obtained and what effect did this have on other FCC activities?

Answer: The Commission agreed to a settlement of $198,827 with the realty firm of Julien Studley, Incorporated. The firm initially claimed damages of $1,543,006 for failure of the Commission to enter into a lease for office space located by the firm and for the Commission's termination of the use of Studley, Inc. as exclusive real estate broker. The settlement was determined by our Contracting Officer to be in the best interest of the goverment and to be a proper settlement under the Contract Disputes Act.

Funding for this settlement was paid against FY 1980 and FY 1981 monies. Subsequent to the end of each of these fiscal years, actual payments on several existing obligations in FY 1980 and FY 1981 were less than the original estimated amount. The funding made available from the difference between the estimated obligation and the actual final payment was used to make the required litigation payment. Additionally, in FY 1981, a contractual agreement with Studley, Inc. was established and obligated for the sole purpose of setting aside funds for the litigation agreement. The original amount of this contract was insufficient to cover the full amount of the settlement. There was no adverse effect on any FCC activities as a result of this settlement.

Question: As noted in your common carrier description, one of your major tasks during 1983 and 1984 will be to develop audit programs to monitor the transition from regulation and non-regulation. How many staff members and how much travel funds have you earmarked for this endeavor?

Answer: There are fifteen staff members available for audit functions in support of common carrier activities. These staff members are in two Divisions of the Common Carrier Bureau. There are three auditors working on the Computer II Staff in the Enforcement Division. This is the staff charged with the responsibility for implementation of the Computer II Decision. Within the Audits Branch of the Accounting and Audits Division there are six auditors in Washington, D.C. and six auditors (and two vacancies) in the New York Field Office. This staff is charged with providing audit support for any activity in the Bureau including but not limited to implementation of the Computer II Decision.

Although specific travel funds were requested for the Computer II project in our FY 1983 Budget Request to OMB, this funding request was not incorporated in our FY 1984 Congressional Budget Estimates. We anticipate a request in the near future to reprogram a portion of the $200,000 that was appropriated for computerized auditing to assist the Computer II implementation effort to travel in connection with our Computer II auditing. That money is available only for FY 1983, not FY 1984. The Bureau will use its existing travel base funding for auditing in FY 1984.

Question: Your 1983 budget submission included $1.7 million to hire experts necessary to implement the Commission's Computer II Decision. In light of the AT&T antitrust settlement, do you still plan to make this expenditure? If so, please describe more specifically how these funds will be used? If not, what use will be made of these funds?

Answer: The AT&T antitrust settlement has no immediate bearing on the implementation of the Computer II Decision, although future developments after the settlement is implemented may affect our regulatory program. The $1.7 million dollars is being used in two segments. There is $200,000 for expert help in designing, developing and implementing computer assistance for the Computer II monitoring project. The $1.5 million is for hiring experts to assist the staff in the valuation of leases, land and buildings which are to be transferred from AT&T to the separate subsidiary. We are still pursuing expenditures for both aspects.

The current status of these funds is as follows:

A. Computer support - The agency has spent $8,000 for a terminal to allow the staff to connect with current centralized computer equipment in the agency. We are currently considering purchase of a minicomputer at an approximate cost of $50,000. This mini will allow the staff to evaluate the data provided by AT&T and assist in the electronic recordation of shared Administrative and other regulated/competitive interfaces.

The staff is also pursuing the purchase of software programs to assist in the recording and evaluation of data concerning installation and maintenance. We currently anticipate that this will cost $16,000. We anticipate that there may be additional software costs for other aspects of the data.

We also anticipate preparing a proposal for reprogramming a portion of the remaining funds for travel for auditing. No funds were appropriated for travel specifically in support of Computer II.

B. Valuation - The purpose of this project is to establish fair market value for leases, real properties (land and buildings) and other tangible items scheduled to be transferred from the Bell Operating Companies (BOC's). After making general inquiries concerning the cost of having private appraisers do the work, the staff decided to pursue a possible contract with the Army Corps of Engineers in combination with outside auditors performing the valuation function at AT&T's expense. The Corps already has a regional structure in place that could be invaluable in completing this project in a timely fashion. At this stage it is not possible to determine whether all of the funds will be needed for this project. We expect to know within the next 60 - 90 days.

Question: Please quantify (1) the funds (including staff costs) which have gone into the development of the FCC information network; (2) projected expenditures for the network over the next two years; and (3) projected benefits resulting from it.

Answer: (1) The cost of the FCC Information Management Network, including staff, will reach $1,297,000 by the end of FY 1983. (2) We project an additional cost of completing this network, including staff costs, at $1,364,000 through FY 1985. (3) Benefits of the FCC Information Management Network by FY 1985 include: A. Actual dollar offsets of $260,000 per year by the discontinuance of rental of other office automation equipment. We have, as of this date, discontinued one shared logic office automation computer at a cost reduction of $150,000. The remaining stand-alone word processors (we have 37) will be phased out by the end of FY 1984 for an annual savings of $110,000. B. We will save over $200,000 per year beginning in FY 1985 by automating our textual input into the FCC Reports and the Federal Register. C. When the effort to develop the FCC Information Management Network began in FY 1981 the FCC had less than 50 word processing units from four different manufacturers. These units were incompatible and not capable of any type of interconnection. They were isolated stand-alone units used strictly for individual office word processing. By FY 1984 the FCC will have in excess of 125 office work stations. Each of these will be capable of word processing as well as a myriad of additional office functions such as project tracking, electronic mail, data entry, spread sheet formulation, etc. These units will be interconnected and have the capability of passing data and documents electronically. We will be able to add units at small incremental costs and all units will be compatible and interchangeable. The FCC Information Management Network is our attempt to improve staff productivity through automation so that we can continue to perform effectively in the face of increasing workloads and decreasing resources.

Question: What do you expect the administrative effect of your recent decision on telephone access charges (CC Docket No. 78-72) to be on the Commission? What effect will it have on your ability to process tariff filings in a timely fashion?

Answer: The access charge plan adopted by the Commission on December 22, 1982 requires that, beginning January 1, 1984, the use of exchange facilities for interstate services be paid for under tariff. All of the approximately 1,500 local telephone companies must establish end user charges to cover the interstate portion of certain non-traffic sensitive (NTS) costs of plant dedicated to individual subscribers. Local companies have the option of either filing their own tariffs with the FCC or pooling these costs and concurring in interstate tariffs filed by a telephone company association. Separate tariffs must be filed with the Commission by the telephone association for payments to be made by interexchange carriers (carrier's carrier charges) covering the remaining portion of interstate NTS costs as well as traffic sensitive costs and a Universal Service Fund. All of these access tariffs will be filed no later than October 3, 1983 so that they can be reviewed and put in place by January 1, 1984, the date of divestiture.

It is not possible at this time to estimate the precise number of tariff filings that will be made. In the first year, AT&T will file the telephone association tariffs for both end-user and carrier's carrier charges. However, separate end-user tariffs might be filed for the Regional Operating Companies. Some of the independent telephone companies also might opt out of the telephone association in the first year and choose to file their own tariffs. Although we cannot, at this time, precisely estimate the size of these filings, preliminary indications are that tariffs for the divested Regional Operating Companies alone will contain approximately 65,000 pages of tariff material 1/ and 32,000 pages of cost material (97,000 pages total). Estimates for the size of the telephone association filings and any independent telephone company filings are not currently available.

These filings will create a large additional workload for the Common Carrier Bureau. Each access charge tariff, along with its cost support materials and any legal protests filed under Section 1.773 of the Commission's Rules will be subjected to examination, processing, and legal review. The additional administrative burden will be felt most heavily in the latter part of calendar year 1983 when the first access charge tariffs are filed. This burden will increase when, at the same time, AT&T also files revised tariffs for its interstate message and private line offerings to reflect the removal of exchange access costs from the rates for these services. In addition, it is expected that in 1983 AT&T's private line tariffs will be restructured.

Some of the efforts that will be undertaken in 1983, such as the revisions to AT&T's message and private line tariffs, will not need to be repeated annually. However, the burden on the Common Carrier Bureau's Tariff Division will still be large in subsequent years. The number of tariff filings and special permission requests generally has been increasing annually at approximately a five percent rate. Moreover, we anticipate that the number of access charge filings will increase over time as additional independent telephone companies choose to leave the telephone association pool and file their own end-user access charge tariffs.

Additional personnel will be needed in the Tariff Division to handle the increased workload. An increase in resource needs might also be felt in the Bureau's Economics Division which is responsible for gathering data from carriers.

Question: The 1984 budget indicates that the number of workyears in the Computer Applications Division declines from 41 in FY 1982 to 37 in FY 1984 and in the Information Processing Division, workyears decline from 33 to 30 over the same time period. At the same time, the Commission is developing several new computer systems and is purchasing several new computers and other hardware that will have to be maintained.

In light of additional automation development and maintenance requirements, what will be the effect of this reduction in workyears on the timeliness of new system development and the effectiveness of computer maintenance?

1/ In comparison, in FY 1982 the Tariff Review Board examined 22,000 tariff pages.

Answer: The decline of four workyears in the Computer Applications Division is partially off-set by the application of new technology, i.e. data base management, which permits us to implement automated systems with less programming resources and make off-the-shelf (preprogrammed) software products directly available to the end-user. Notwithstanding this increase in productivity of the available programming staff, the demand for new and enhanced ADP systems, coupled with the requirement to maintain an ever increasing inventory of operational systems, will require the rescheduling of some lower priority systems. We are presently investigating the feasibility of obtaining commercial programming services to alleviate any shortage of in-house programming resources that may arise.

The decline in the Information Processing Division's workyears from 33 to 30 is also partially attributable to the completion by that Division of the considerable work load backlog connected with non-government master frequency file maintenance. This file is now fully automated and the maintenance function has been largely transferred to our facility in Gettysburg.

The additional workload connected with the addition of minicomputers has been largely absorbed by existing Information Processing Division staff.

Question: We understand you have recently evaluated the costs and benefits of consolidating all microwave licensing and all land mobile licensing. What would be the resource savings and other benefits if these consolidations occurred? What would be the costs? In lieu of consolidation, what steps do you plan to take to better coordinate the various microwave licensing activities and land mobile licensing activities? What are the resource savings of these steps?

Answer: The Commission is currently in the process of preparing detailed requirement studies for both microwave and land mobile licensing, using data base management techniques. The goal is to develop a single, consolidated license processing system for both microwave and land mobile activities. The extent to which consolidation is possible, or desirable, and specific resource savings or other benefits to be realized will not be known until the detailed requirements studies are completed later in FY 1983.

If consolidation is feasible, we would expect to see the following advantages or benefits:

- Faster and more efficient computer systems development.
- Reduced hardware requirements - both terminals and file storage space.
- More efficient applications processing and data entry operations.
- Reduction in personnel required to process applications and to maintain automated systems.

Question: The Commission's Honeywell mainframe computer will be paid for in the near future. Do you foresee the need to replace or upgrade this machine in the next several years? Also, have you estimated your long-term information processing needs and what type of equipment you will need to meet these needs?

Answer: The present lease-purchase contract on the Commission's Honeywell mainframe computer will expire in April 1985 at which time all rental charges cease. Hardware and vendor software maintenance charges will continue, however. At that time the equipment will be almost 11 years old. Honeywell has announced that it will no longer upgrade the vendor operating software for this hardware after the latest version which is presently being installed.

We have invested considerable resources in Honeywell hardware and software during these past 11 years. The decision to implement most new systems using state-of-the-art data base management technology was largely based on the considerations that 1) it would extend the useful life of the Honeywell beyond the 1985 time frame and 2) using a Federal Information Processing Standard data base management system (DBMS) would ease, if not altogether eliminate, the burdens usually associated with converting to new hardware.

Efforts are presently underway to determine our long-term information processing needs beyond FY 1985. With the introduction of minicomputers to our equipment inventory, along with the employment of new technology on the Honeywell computer during the foreseeable future, we plan to evolve from a purely centralized to a more distributed ADP environment by the end of the decade.

It is through these ongoing efforts and our Five Year planning process that we are determining our long-term processing requirements and the type of equipment that will be needed to meet our future ADP requirements.

Question: The Commission plans to expand and streamline its enforcement plan to recover unused channels from private land mobile radio licensees. Please describe in more detail how the plan will be expanded (e. g., to 800 MHz users also?) and how the program will be streamlined. Also, how effective has the program been in terms of recovered channels and a more accurate data base? What are the goals of the program? Please indicate if this will be a continuing or one-time effort. If continuing, at what level of activity?

Answer: The unused channels are being recovered from SMR operators licensed during 1979-1981 and who were given two years to achieve certain mobile loading levels. Before January 1981 there was no systematic program to recover these channels.

The program has been very effective. It has eliminated the three year waiting list for 800 Mhz frequencies in Miami, for example. Waiting lists in approximately a half-dozen cities will be eliminated in the next few months as these channels are reassigned. The goal is to recover all unloaded channels in all 14 waiting list cities and redistribute them to applicants on the waiting list. This will be a continuing program at the same level.

Question: Speeds of service for private radio land mobile radio applications were approximately 25 days at the end of FY 1982, which appears to be an acceptable processing standard for the public and Commission. The Commission plans to automate the land mobile application processing system in FY 1983. In light of the acceptable speeds of service, please indicate the additional benefits of this automation (to meet future application increases, reduce staff and other cost, more accurate data bases, etc.) and discuss when you expect these benefits to accrue.

Answer: Historically, the Land Mobile Radio Services have been increasing at a rate of 6 - 16% per year depending upon the particular service. While this rate was not as dramatic last fiscal year, we anticipate that in FY 1983 receipts will again increase.

Savings from automation will be used to offset these projected increased rates. To the extent that growth does not occur as anticipated, staff reductions will take place, or these resources may be transferred to new or existing authorization of service programs as needed.

Automation not only will greatly improve the accuracy of the database, it would, more importantly, make it more usable. A manual database, no matter how accurate, cannot be as utilitarian for enforcement, regulatory, or planning purposes.

Automated Land Mobile Applications Processing System (ALMAPS) development will be conducted in three phases with those portions of the system which will provide the greatest productivity increases and benefit to the public implemented first. Phase I is scheduled to be completed by July 1983. This phase includes automated License Renewal Notifications, computer generated licenses and several data base query routines. Phase II will be completed in March 1984. This phase will include implementation of an on-line Canadian Clearance (COSUR) file which will be used to expedite Canada/US coordination actions as well as having in place the temporary (applications in process) data base and required automated validation routines. After processing, the license data will be automatically moved to the permanent data base (XFS).

The XFS file is currently in place and is updated daily. Phase III, scheduled to be completed in April 1985, completes the development actions. It provides for the automatic interface with other automated files (ASB, Canadian, IRAC, etc.) to perform much of the examination function. When completed, the ALMAPS will enable the Private Radio Bureau to meet future application increases without a corresponding increase in staff, reduce the paperwork burden on the public and provide an accurate and timely data base. The latter is of primary importance in that it will be used extensively in the preparation of future rulemakings dealing with the establishment of new radio services.

Question: What are the major activities which the Commission will have to undertake for the AT&T antitrust settlement to proceed as scheduled? What are the deadlines for completing these activities? What effect will they have on routing Commission activities (e. g. how will the Common Carrier Bureau's review of Section 214 applications relating to the settlement affect its licensing activities in the bureau?

Answer: The Modified Final Judgement (MFJ) ends the long-standing practice of the local operating companies' (BOC's) sharing of long distance revenues with AT&T Long Lines as compensation for use of exchange facilities in completing long distance calls. As of January 1, 1984, the scheduled date of divestiture, the BOC's must provide to all interexchange carriers,including AT&T and its affiliates, exchange access and exchange services on an unbundled, tariffed basis. Therefore, in order for divestiture to take place as scheduled, the BOC's must have tariffs for access charges in place and effective on that date. These access charge tariffs must be filed at least 90 days prior to their effective date and the Tariff Division must complete its review, make its recommendations and complete any necessary modifications within that minimum period. The filing of access charge tariffs will have the effect of increasing the Tariff Division's routine review and analysis activity because of the complexity involved in those tariffs. Concomitantly, there will be increased tariff filing activity from interxchange carrrers revising their services to reflect the new access charge levels. While these revised interexchange tariffs do not have to be effective at divestiture, they will be in the review process at approximately the same time as the access charge tariffs. The Tariff Division has requested additional resources in order to be able to handle this increased activity.

The transfer of various facilities mandated by the Modified Final Judgement entered in United States v. American Telephone and Telegraph Co., Civil Nos. 74-1698 and 82-0192, __________ F. Supp. __________, 47 Fed. Reg. 40392 (D.D.C. 1982), requires prior authorization for the Commission. In September 1982 the Chief, Common Carrier Bureau, established a task force under the direction of the Deputy Chief, Operations, to plan for accommodating the anticipated workload. The task force recommended, and the Commission adopted, a procedure substantially different from that generally employed in dealing with corporate reorganizations. Rather than waiting for AT&T to file for the necessary authorization, the Commission, on January 13, 1983, asked the company to file by March 1, 1983. The Commission invited the company to file consolidated applications and to seek waivers of various filing rules as appropriate. The Commission asked AT&T to discuss certain matters in its filings. For example, AT&T was asked to discuss changes that have occurred and will occur in the network as a result of the Modified Final Judgement, what the cost of the changes attributable to the MFJ are, how the costs will be recovered, the effects the MFJ will have on national security and emergency preparedness, etc. Several thousand separately authorized facilities are involved in the application. Parties will be permitted 45 days within which to file comments, 20 days for reply comments and 5 days for final comments. The comment period will close in mid-May. It is likely that the Commission will receive a large number of pleadings relating to the filings. In light of this it appears that review of the application will take substantial Bureau resources and a number of months. AT&T has repeatedly indicated its desire to accomplish all the transactions necessary to implement the decree by January 1, 1984.

By carefully budgeting our resources, we believe we will be able to complete our analysis and act on the applications prior to the January 1, 1984 target date. Although the filings will be voluminous, much of the initial application relates to different radio stations, and the processing of station information should not present substantial difficulties when averaged over the time available.

Various sub-groups of the task force already have devoted a substantial amount of time to analyzing the information available (see e.g., Common Carrier Bureau Analysis of AT&T Plan of Reorganization, released February 11, 1983) from a policy perspective. With a modest augmentation of present staff already budgeted, we believe the January 1, 1984 deadline will be met.

Question: Now that you have received the Experimental Technology Incentives program report on common carrier industry analysis, noted on page 61 of your budget submission, what actions do you take to improve your industry analysis activities?

Answer: The Experimental Technology Incentives Program report suggested several avenues for the FCC to follow as means toward improving its industry analysis activities. The Commission agrees with the objectives of the report and is committed to ensuring that the overall impact of its policies on the public and the industry is adequately monitored. One method of achieving this — a Quarterly Telecommunications Survey Report — is under active development. This report would display information on market trends, such as structure, size and pricing within the telecommunications industry and serve as a useful indicator of the impact of Commission policies. A second example is the continuing responsibility of the Commission to monitor the policy and service impact of the MTS and WATS Market Structure Inquiry decision on access charges.

Question: What progress do you expect to make on revising the Uniform System of Accounts for common carriers in 1983 and 1984? Will this project be completed?

Answer: During 1983 we anticipate that the Telecommunications Industry Advisory Group (TIAG) will issue three formal reports to the Commission offering recommendations on the following Uniform System of Accounts (USOA) areas: adoption of generally accepted accounting principles; structure and content of Plant Accounts; structure and content of Expense Accounts. In early 1984, the TIAG should follow suit with its report on Income and Other Accounts. As each report is issued, the Commission will release it for public comment. The staff will then combine these reports and comments into a Further Notice of Proposed Rulemaking. Thus, we anticipate that a Final Rule will be issued (and the project completed) during 1985, in sufficient time to have the new USOA in place and functioning by January 1, 1986.

QUESTIONS SUBMITTED BY SENATOR EAGLETON

Question: What percentage of the FY 84 budget and manpower hours do you estimate will be allocated to fulfill the FCC's role in carrying out the 1982 AT&T decision?

Answer: The Commission must perform two basic functions in relation to implementation of the Modified Final Judgment (MFJ) entered in United States v. American Telephone and Telegraph Co., 552 F. Supp. 131 (D.D.C. 1982), aff'd sub nom. Maryland v. United States, 51 U.S.L.W. 3628 (U.S. Feb. 28, 1983). As of January 1, 1984, the scheduled date of divestiture, the Bell Operating Companies (BOCs) must provide to all interexchange carriers, including AT&T and its affiliates, exchange access and exchange services on an unbundled, tariffed basis. In order for divestiture to take place as scheduled, the BOCs must have tariffs for access charges in place and effective on that date. These access charge tariffs must be filed at least 90 days prior to their effective date and the Tariff Division must complete its review of these tariffs before January 1, 1984. The filing of access charge tariffs will have the effect of increasing the Tariff Division's routine review and analysis activity due to the complexity of the access tariffs. At the same time there will be increased tariff filing activity from interexchange carriers revising the charges for their services to reflect the exclusion of certain exchange facility costs. These revised interexchange tariffs will be in the review process at approximately the same time as the access charge tariffs. The Tariff Division has requested additional resources in order to handle this increased activity.

The transfer of various facilities mandated by the Modified Final Judgment also requires prior authorization by the Commission. In September 1982 the Chief, Common Carrier Bureau established a task force under the direction of the Deputy Chief, Operations to plan for the expected workload in this area. The task force recommended, and the Commission adopted, a procedure substantially different from that generally employed in dealing with corporate reorganizations. Rather than waiting for AT&T to file for the necessary authorization, the Commission, on January 13, 1983, asked AT&T to file its application by March 1, 1983. The Commission also invited AT&T to file a consolidated application and to seek waivers of certain filing rules. The Commission asked AT&T to provide information on certain matters including changes that have occurred and will occur in the network as a result of the Modified Final Judgment, the cost of the changes attributable to the MFJ, the manner in which the costs will be recovered, and the effects the MFJ will have on national security and emergency preparedness. Several thousand separately authorized facilities are involved in the application. Parties are permitted 45 days within which to file comments, 20 days for reply comments and 5 days for final comments. The comment period will close in mid-May. Review of the application might take as long as several months and require substantial Bureau resources. AT&T has repeatedly indicated its desire to accomplish all the transactions necessary to implement the decree by January 1, 1984.

By carefully budgeting our resources, we believe we will be able to complete our analysis and act on the application prior to the January 1, 1984 target date. Although the filing will be voluminous, much of the initial application relates to different radio stations, and the processing of station information should not present substantial difficulties when averaged over the time available. Since the divestiture is scheduled to take place on January 1, 1984, most of the staff work involved in implementing the MFJ will occur during Fiscal Year 1983 and the first quarter of Fiscal Year 1984.

Question: How much staff has been used in developing the December 22 rule on access charges? How much of that time was used to ascertain public comments on the proposed rule?

Answer: Three senior staff members in the Common Carrier Bureau have devoted most of the last nine months to work on the Access Charge Proceeding. Other staff members were also involved, but for more limited periods of time. Their activities involved preparation of the Fourth Supplemental Notice of Inquiry in this proceeding, released June 4, 1982, analysis of the comments filed in response to the Notice and drafting of the access charge decision. The staff work was reviewed by the Chief of the Common Carrier Bureau and his staff, the Office of the General Counsel and the Commissioners' personal staffs.

The analysis of comments is one of the staff's primary tasks in any proceeding. Approximately 70 parties filed comments in response to the Fourth Supplemental Notice. A large number of parties also filed comments in response to the earlier Second Supplemental Notice in this proceeding. The parties filing comments in response to the Fourth Supplemental Notice included state regulatory commissions, consumer groups, large and small local telephone companies, large telecommunications users, long distance communications carriers, and government agencies. The Commission also held an en banc oral argument on November 29, 1982. In preparing the access charge decision, the staff also considered the views of small independent telephone companies concerning the impact of rate increases on subscribers presented in the Jurisdictional Separations Proceeding. Altogether more than half of the staff time devoted to preparation of the access charge decision was spent obtaining and analyzing comments on the issues involved.

The Commission's access charge decision mandated creation of a Universal Service Fund to ensure the continued availability of affordable telephone service in high cost rural areas. The Federal-State Joint Board was asked to prepare a recommendation concerning the extent and targeting of rate support for high cost companies. The Joint Board also sought comments from interested parties concerning these issues. As was the case in the *Access Charge Proceeding*, a very substantial part of the staff time devoted to the *Jurisdictional Separations Proceeding* involved obtaining and reviewing comments from interested parties including state regulatory officials, large and small telephone companies, and consumers. The Commission is presently reviewing petitions for reconsideration filed in the *Access Charge Proceeding*. Oppositions and replies to these petitions will be filed in May 1983.

As mentioned in the body of my letter, the Commission's access charge decision provided for monitoring of the access charge implementation. The Joint Board has also recommended that the Commission extend the Joint Board's mandate to include monitoring implementation of the access charge decision and the changes in separations procedures.

Question: *The Missouri Public Interest Research Group recently filed a petition with the Commission to establish regional hearings on the access charge question. Would such hearings, in your opinion, be duplication of earlier FCC efforts. If not, what would be the capability of the Commission to hold such regional hearings?*

Answer: Holding a series of regional hearings concerning the access charge question is not administratively feasible or desirable at this time. A full opportunity for comment has already been provided for in the *Access Charge Proceeding*. As stated in response to your previous question, the Commission considered comments from a wide range of interested parties before reaching its decision. The Federal-State Joint Board in the *Jurisdictional Separations Proceeding* also developed an extensive record containing information and views submitted by a wide range of interested parties before making its recommendations concerning the Universal Service Fund and the level of rate support for local telephone companies serving high cost areas.

In addition to allowing interested parties a full opportunity to file formal comments and holding an *en banc* oral argument, the Joint Board held a series of eleven regional hearings throughout the country in the Spring of 1982. This series of hearings was designed to ensure that small independent telephone companies, state regulatory officials, and consumers would have a full opportunity to participate in this proceeding. Hearings were held in: (a) Providence, Rhode Island; (b) New York City; (c) Raleigh, North Carolina; (d) Miami, Florida; (e) Dallas, Texas; (f) Des Moines, Iowa; (g) Kansas City, Kansas; (h) Traverse City, Michigan; (i) Salt Lake City, Utah; (j) San Francisco, California; and (k) Portland, Oregon. Over 100 small independent telephone companies took part in these hearings. Almost all of them emphasized the importance of protection for telephone subscribers in high cost rural areas, although a few also expressed concern that large users would be driven to bypass the local exchange. A report on these hearings was presented to the full Joint Board at its meeting in July 1982. Since the participants in these regional hearings addressed the issue of universal service, further regional hearings on access charges largely would be duplicative of previous Commission efforts.

A series of regional hearings on access charges also is not administratively feasible at this time. The local exchange telephone companies must have access charge tariffs in effect by January 1, 1984 if the AT&T divestiture is to proceed as directed by the court. In order to allow local companies adequate time to prepare these tariffs, which must be filed October 3, 1983 to become effective on January 1, 1984, the Commission must act on the petitions for reconsideration that have been filed in the *Access Charge Proceeding* as expeditiously as possible. Due to these time constraints, it is not possible for the Commission to hold regional hearings on access charges at this time.

Question: Finally, in your opinion are state public service commissions better equipped to deal with the issue of local rate regulation than the federal government, and should the question of access charges be left to the states?

Answer: The access charge plan adopted by the Commission does not involve the establishment of local telephone rates. Both the flat fee subscriber access charges and the carrier's carrier access charges provided for in the access charge decision are intended to recover the NTS costs allocated to the interstate jurisdiction. At present approximately 26 percent of all NTS local exchange costs are allocated to the interstate jurisdiction to reflect the fact that local exchange plant is used in the origination and termination of interstate toll services. Under the Communications Act the FCC has regulatory authority over all interstate telecommunications services. The NTS costs allocated to the intrastate jurisdiction are recovered through the charges for intrastate services, including local exchange service, regulated by the state commissions.

Uniform nationwide principles for the calculation of interstate access charges are necessary to effectuate the Commission's basic goals of: (1) assuring the continuation of universal service; (2) eliminating unjust discrimination or unlawful preferential rates; (3) encouraging network efficiency; and (4) preventing uneconomic bypass. The development of inconsistent regulations for interstate access services by the individual states would seriously retard development of the competitive interstate communications marketplace.

Although federal regulation of interstate access charges is necessary to ensure sound development of the interstate telecommunications market, state regulators can make a valuable contribution in the process of monitoring the implementation of the access charge and separations decisions. State regulators will also establish rules governing access for intrastate services.

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

STATEMENT OF ROBERT E. WARD, CHAIRMAN

ACCOMPANIED BY RICHARD A. ERICSON, JR., EXECUTIVE DIRECTOR

BUDGET REQUEST

Senator **Laxalt**. Our next request is that of the Japan-United States Friendship Commission. The Commission is requesting $1.7 million in earnings on the dollar trust fund, plus an amount equivalent to $1.2 million in foreign currency earnings on the Japanese yen fund, to remain available until expended. The total request is the same as the amount appropriated for fiscal year 1983.

Appearing on behalf of this request is Dr. Robert E. Ward, Chairman of the Commission and Ambassador Richard A. Ericson, Executive Director. Dr. Ward, I understand that your term as Chairman will expire later this year. The committee wants to express its gratitude to you for all your contributions to the Commission over the last few years. We deeply appreciate your interest and efforts, and hope you will remain available for consultation in the future. We are glad to have your statement.

Dr. **Ward**. Thank you, Mr. Chairman, I appreciate that. It is a pleasure working with you and I certainly will be available. If I may simply let stand the report which has been submitted to you, there are a few things I would like to add.

CORE PROGRAM

In general, we have what we call a core program that is devoted to the basic activities mandated by our legislation. This program is concerned with fields like Japanese studies in the United States, where we can use our income to assist language trainees, for example Americans who are going to specialize in Japan in academic fields, in the private sector and in the Government. We worry about the library problem, and help our major university libraries to increase their collections of Japanese materials. We also sponsor artistic and cultural exchanges. We have a variety of fundamental activities but we describe all these in our annual report. We thought it might be of interest if I would say more about the unusual things and tell you a little bit about them.

THE COMMISSION'S INITIATIVES—REGIONAL PROGRAMS

One of these is what we call our regional program; it is the most costly venture we are involved in at the moment. We base this effort on the belief that while the press and the media do a reasonable job in reporting on Japanese-American relations, it is by no means adequate to the problems that we face. By and large the

American public is not too well informed on these. And we look, for example, to the work certain organizations that we know are doing to correct this—and probably the best work in the country is being done by the Japan Society in New York City.

JAPAN SOCIETY

Senator **LAXALT**. What is the Japan Society?

Dr. **WARD**. It is an old organization that attempts to present to its membership information regarding both sides of the issues that come up between the two countries, and regarding Japanese culture and society in general. It has done a very effective job of this, and as a result I think New York City is probably better supplied with accurate information on Japan and on the relationship between our two countries than anyplace else in the country.

It occurred to us that if we could encourage the development of institutions of this sort elsewhere in the country, we would be doing something that was useful in terms of establishing a better understanding of the relationship and the attitudes and the needs of the two countries. We are now financing on a temporary basis over a period of 3 or 4 years about 16 organizations of this sort in metropolitan areas throughout the United States. We have no intention of doing this permanently; they either make it or they don't make it. Our assistance is intended to permit them to hire professional staff who can devote all their time, energy, and skill to go out and raise the money necessary to sustain them on a continuing basis. I will not predict that they will all be successful, but we have now had 3 years of experience with this program and we have a number of very encouraging examples of places that are making it and are providing a forum where both American specialists on Japan and Japanese specialists on Americans can discuss current issues. They have been quite successful in raising the public consciousness on these problems throughout the country.

SUPPORT FOR ACADEMIC RESEARCH ON POLICY ISSUES

There are two other things we are doing that might have considerable potential. One of them is based on the proposition the campuses of the country have not been contributing as much as they could to the resolution of some of the economic problems that are cropping up these days. To deal with this inadequacy we have set up our policy related research program. This is best described in terms of examples. One recent problem was the competition in semiconductors between Japan and the United States. We established two teams, one in the United States and one in Japan, to research this problem, and we have gone ahead from this more limited field of semi-conductors to research into high-tech industrial competition in general. There is one team, unusual in its composition, which includes not only economists but also scientists who deal with this problem, and they are working with counterparts in Japan who occupy comparable positions in their skills there in an attempt to look at this whole situation.

Then there are the technological breakthroughs that have occurred within Japan and this country. In the United States, we expect that they come partly from IBM and large firms of that sort, but probably more frequently they come from the small spinoff firms, where somebody has an idea and is able to get some venture capital, and takes it from there. We are looking into the sources of these technological innovations in both countries. We are looking into the source of finance. Financing in Japan is said to be both longer term and more flexible and this provides competitive advantage, thanks to Government policy. We are looking into what extent this is true. And we are looking into all of the claims that have been made about the skills of Japanese management and the usual characterization of Japanese Government assistance, a great deal of which is misinformation and sometimes quite wrong, made by people who blame the present crisis on Japan and don't know a great deal.

Senator **Laxalt**. How do you disseminate this information once you get it?

Dr. **Ward**. We don't want to treat it as normal academic research. What we did in the semiconductor case was to take a group on the road on tour. We took both Japanese and Americans to New York and they put on a performance for industry there, and we brought them to Washington and they performed before the Senate and the House and their staffs. We took them to Silicon City. We hope to do the same with this group.

Senator **Laxalt**. That sounds excellent.

BUSINESS EDUCATION ON JAPAN

Dr. **Ward**. One final thing has to do with our graduate schools of business. We convened in Washington last February a gathering of business school administrators in an attempt to find out what they were doing about education in graduate business schools on Japan. The answer is that they operate on a highly functional basis. They stick to topics like marketing and production, things of that sort, and they have very little area input. So we have recently launched a new program, with the initial proposals coming to us now. We have a number of them and we will be funding over probably two or 3-year periods schools of business, graduate schools of business, enabling them to send their faculty to Japan to learn firsthand what goes on there and to produce teaching materials for courses on Japanese business practices when they come back. This is a long-term thing.

Senator **Laxalt**. How do you coordinate with the State Department in all this? Is this pretty much on your own?

Dr. **Ward**. We have personal connections with State. We work closely with the Embassy in Japan. The Embassy has an interest in what we are doing.

Senator **Laxalt**. There is increasing antagonism developing between the two countries that can be overcome with communication of the type described. There is so much misinformation.

Dr. **Ward**. Yes, indeed.

Senator **Laxalt**. Mr. Ericson, did you want to say something?

Mr. **Ericson**. I wanted to say that the Commission does not take direction from the State Department; it is an independent agency. We do coordinate very closely with them and with other Government agencies that have an interest in Japan. We don't function on the policy level. We are seeking to provide information to the American public. That gives us a different purpose from USIA, for example.

Senator **Laxalt**. In a general basis, Doctor, how would you assess the relations between Japan and the United States now as compared to, say, 3 years ago?

Dr. **Ward**. Much more tense.

Mr. **Laxalt**. You deal mainly with the economic problem?

Dr. **Ward**. The security problem is always in the background, but I think that it is remote enough that there normally isn't a high focus on that sort of issue, but continuously it is the economic problem between the two countries that gives us concern. What the Japanese pick up which comes out of the press, and sometimes Congress, they play up over there in a way that is impossible to overemphasize. They pay so much more attention to us than we do to them, and this causes our differences to be magnified.

Senator **Laxalt**. That is true with many of our allies, really. We don't realize in this country the tremendous negative effect that an irresponsible speech can have.

Dr. **Ward**. It is picked up in the Japanese press whether it is representative or completely unrepresentative.

Senator **Laxalt**. Do you have anything more you would like to offer for the record?

Dr. **Ward**. No.

[The statement of Robert E. Ward follows:]

PREPARED STATEMENT OF ROBERT E. WARD
CHAIRMAN
JAPAN-UNITED STATES FRIENDSHIP COMMISSION

Mr. Chairman and distinguished Members of this Subcommittee:

It is an honor to appear before you on behalf of the Japan-United States Friendship Commission. This is my third appearance as Chairman of the Commission and my last. My term of office will expire on July 1. Dr. Glenn Campbell, Director of the Hoover Institution on War, Revolution and Peace at Stanford University will succeed me on that date as Chairman of the American Panel of CULCON and therefor also, under the provisions of the Japan-United States Friendship Act, as Chairman of the Friendship Commission. As is customary, I have with me today the Executive Director of the Commission, former Ambassador Richard A. Ericson.

The Commission was established by Act of Congress in 1975 as a unique agency of the United States Government, the only government entity which has as its sole purpose the promotion of friendship and understanding between Americans and the people of a single foreign country. In taking this unprecedented step, the Congress very wisely and clearly perceived the existence of a critical need and, as the daily press reminds us, the passage of time has in no way diminished the requirement. The recent history of our dealings with Japan across the spectrum of a complex and dynamic relationship reveals a disturbing incidence of ill-feeling and friction. Some of this is the natural consequence of the difficulties both countries have had in adjusting to enormous changes in their relative economic power. Some is attributable to differences in their responses to such problems as the maintenance of international security. Much of it derives from trade competition in a time of economic distress. But these feelings also arise from the fact that solutions for the causes of current strains must be found across an enormous cultural gap. The aspirations of the Japanese for a free and productive life under a representative government are very like those of Americans, but there are centuries-old differences in value systems, decision-making processes, governing systems, and thought patterns that lead to misunderstanding when the relationship is placed under stress.

The Commission's charter calls on it to promote friendship and understanding with Japan through cultural and educational exchanges. To carry out this charge, the Commission was provided in 1976 with two endowments - known collectively as the Friendship Fund - with an initial appropriation of $18,000,000 in dollars, representing a portion of the funds paid by Japan to the United States for certain American-built facilities on Okinawa, and ¥3,941,112,771 in yen, representing a portion of Japan's repayments for immediate post-war assistance. Under the terms of the repayment agreement with Japan, the yen funds must be spent in Japan. Aside from the generous gift of $2,000,000 which then Prime Minister Suzuki presented to the Commission on the occasion of his visit to the Congress in May, 1981, the endowment has not been augmented.

The Friendship Act authorizes the Commission to invest the principal and to retain, invest and spend, subject to appropriation, the annual interest received on the appropriated funds. It also authorizes the Commission to spend up to five per cent of the appropriated fund principal in any given year when necessary to carry out the purposes of the Act. The Act requires that the dollar fund be invested in United States Treasury obligations; the Commission has adopted the policy of investing the yen fund in Japanese Government bonds. Through FY 1982, the Commission had spent slightly less than the combined cumulative annual earnings of the two funds. On September 30, 1982, the dollar fund was valued at $17,872,577 exclusive of the Japanese gift and the yen fund at ¥4,004,844,992, equivalent to $15,510,631 at the rate of exchange then in effect.

For FY 1984, we are requesting the appropriation of interest already earned and to be earned in the amount of $1,700,000 and the equivalent of $1,200,000 from the Japanese yen fund. These are the same amounts as appropriated for FY 1983. In addition, the Commission anticipates spending up to $500,000 of the Japanese gift on the program for which it was donated. Should it be necessary, the Commission might spend a portion of the already appropriated Trust Fund principal, certainly less than the authorized five per cent, but its policy is to spend its interest earnings first. In recent years, the greatest pressure has been on the dollar fund, and the Commission is endeavoring to increase reliance on yen grants when that is feasible.

In the years since its establishment, the Commission has developed four broad program areas. In its support of the first category, Japanese Studies for Americans, the Commission has concentrated on fundamental, long-range academic programs designed to strengthen teaching and basic research on Japan in institutions of higher learning and, more recently, on programs designed to produce needed specialists in such fields as law, journalism, economics and business. The Commission believes that the support it provides to Japanese language training, library programs, faculty research, and curriculum development in American universities has become a significant factor in the training of American students of Japan, the people who are needed now and in the future to manage our relationship with Japan and to interpret Japan to the American people. In the field of professional education, many of the Commission's activities have been unique, filling needs not met by any other agency, federal or private.

The Commission, in cooperation with leading academic institutions and, where possible, other funding sources, intends to continue to emphasize its program for training specialists. In FY 1984, its major initiative will be a competition among major graduate schools of business for matching grants with the objective of encouraging the establishment of courses on Japanese business management practices.

The second program area is a Japanese counterpart of the first, although smaller in scope. The Commission's activities to promote American Studies in Japanese universities have emphasized library and research center support, post-doctoral research fellowships, major teaching and study seminars, publication support, travel grants, and assistance for visiting lecture courses. The Commission will continue its efforts to encourage the establishment of more American Studies courses at major Japanese universities, which have had only limited success thus far. On the other hand, with over 10,000 students enrolled in American colleges and universities, almost twenty times the figure for Americans in Japanese universities, a far larger proportion of Japan's future leaders are receiving an in depth acquaintance with the United States than is the case with Americans.

The third field, the Arts, has always been and will remain of major concern to the Commission. The Commission emphasizes assistance to artistic and cultural exchanges that would not otherwise be financially viable, has aimed at extending the scope of worthy exchanges supported under other auspices, and has sought to cooperate with other agencies and organizations. With both nations deeply interested in the cultural achievements of the other, there is never a dearth of projects to choose from and the results, often immediately apparent in terms both of public appreciation and the synergism of contacts established among participating artists, managers and scholars, are among the most rewarding.

The fourth field, which may be broadly described as public education, is, with the exception of its counterpart exchanges segment, almost entirely devoted to informing Americans about Japan. This is because, as any American familiar with Japanese information media will attest, Japan's newspapers, magazines, radio, television, and cinema - to say nothing of its politicians and other public figures - devote a great deal more attention to presenting, analyzing and discussing our society than their American counterparts devote to Japan. The fastest growing and largest segment of the Commission's efforts to restore this imbalance is a program begun in 1980. It involves support for the development of regional organizations, each of which has assumed responsibility for coordinating programming for public education on Japan in a particular geographic region of the United States. Many of these organizations are Japan-America Societies. These the Commission supports on a multi-year basis to permit the employment of professional staff capable of undertaking programs on Japan and of increasing revenue through enhanced corporate and private membership to the point where the society will be able to function in later years with reduced support or none at all. Others are general world affairs organizations, interested in multi-year programming on Japan. To enhance the abilities of both, the Commission has supported central coordinating and programming offices which assist the regional officer in scheduling speakers, locating needed resources and providing other forms of programming assistance as required.

It was specifically for this program that then Prime Minister Suzuki, on the occasion of his visit to the Congress in May, 1981, presented the gift of $2,000,000 to the Commission, to be spent at a rate of $400-500,000 annually over a period of four to five years. Due to legal technicalities, it was possible to spend only limited amounts of these funds during FY 1981 and FY

1982. The Commission is grateful to the Congress for the enactment of special legislation in August, 1982 that has now made it possible for the Commission to invest this money and to spend the interest and principal in the manner envisaged by the donor. The Commission will augment these funds with its own resources in pursuing, over the next several years, this promising program.

There are other elements in the field of public education that also deserve mention. The Commission supports counterpart exchanges - for parliamentarians, newsmen and state school officials. It has supported educational, television and film projects in the past and in 1984 will be commissioning research and a conference of experts to determine how it can best employ its limited resources in this effective but very expensive field. It was instrumental in establishing a translation service in Tokyo designed to provide the American press with accurate and timely translations of significant Japanese articles on current issues, and Japanese sources are now contributing more than the Commission to this activity.

I want to draw your attention to one additional activity. The Commission has approved an annual outlay of up to $200,000 for binational research projects into issues of current concern between the two nations. Other foundations in Japan and the United States are interested and there appears to be a good chance for collaborative support. Two major multi-year projects have already been commissioned. One, initially funded in FY 1982, involves a three-year comparative study of the development of high-technology industries in the two countries, and the other, being funded in FY 1983, a comparative study of the effects of laws of all kinds on trade between the United States and Japan. The Commission believes that academic research conducted by knowledgeable scholars of both countries can define potential problems now and for the future, analyze options for policy makers, and assist the public to reach informed opinions about major problems. The Commission does not intend to advocate any policy line. It seeks instead to encourage production of balanced, sound research and analysis.

The Commission includes representatives from the public and private sectors in fields of interest to it. The Congress is represented by four active members - Representatives Conte and Zablocki and Senators Roth and Inouye - whose support and interest are greatly appreciated. Former Senator

Javits, who sponsored the legislation which brought the Commission into being, is also a Commissioner, as is the Librarian of Congress. From the Executive Branch, the Commission includes the Director of the United States Information Agency, the Chairmen of the National Endowments for the Arts and the Humanities, and Assistant Secretaries of State and Education. From the private sector, there are seven distinguished representatives of business, higher education, the mass media and the arts. Their continued interest and guidance ensures that the Commission's activities will complement and cooperate with, but not duplicate or compete with, programs of other official agencies or private organizations.

In conclusion, let me stress that the Commission does not believe it can accomplish miracles with the modest funding available to it. It cannot settle today's trade disputes, restore lost employment opportunities, pry open closed markets, or change any nation's attitudes toward defense issues. Behind all the clamor aroused by the frictions of the day, however, the Commission can and does use its resources to build on the essential good will that has been the dominant feature of United States-Japan relations for the past thirty years and more. It can expand, slowly but significantly, opportunities for two dynamic societies to study and learn about their similarities and differences. And it can contribute to the background of reciprocated respect and mutual understanding against which current problems may be considered and contained, if not resolved.

SUBCOMMITTEE RECESS

Senator **LAXALT**. We appreciate you coming. Best of luck.

The subcommittee will recess until Thursday, March 10, at 9:30 a.m., to consider the request from the Commerce Department.

[Whereupon, at 10:40 a.m., Tuesday, March 2, the subcommittee was recessed, to reconvene at 9:30 a.m. Thursday, March 10, 1983.]

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1984

THURSDAY, MARCH 10, 1983

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D. C.

The subcommittee met at 9:30 a.m., in room S-146, the Capitol, Hon. Paul Laxalt (chairman) presiding.

Present: Senators Laxalt, Rudman, Specter, and Eagleton.

DEPARTMENT OF COMMERCE

SECRETARY OF COMMERCE

STATEMENT OF MALCOLM BALDRIGE, SECRETARY OF COMMERCE

ACCOMPANIED BY:

- **GUY W. FISKE, DEPUTY SECRETARY**
- **IRVIN P. MARGULIES, DEPUTY GENERAL COUNSEL**
- **PAUL A. VANDER MYDE, ASSISTANT SECRETARY FOR CONGRESSIONAL AND INTERGOVERNMENTAL AFFAIRS**
- **DAVID NATHAN, CONTROLLER**
- **NANCY A. RICHARDS, DIRECTOR, OFFICE OF BUDGET**

BUDGET REQUEST

Senator LAXALT. The Subcommittee will come to order.

Today we will hear from the Secretary of Commerce, Malcolm Baldrige, on the programs under his jurisdiction. The Department of Commerce is requesting an appropriation of $1,449,600,000 for fiscal year 1984, a decrease of $311,655,000 from the current level.

In my view, the best way the Commerce Department can improve the Nation's commerce is by helping to restrain Government spending. We seem to be well on our way to economic recovery, but we must not allow that recovery to falter by relaxing our tight control over spending. Therefore, I will be closely examining all areas of the Department budget for possible savings.

Mr. Secretary, thank you for joining us here today. I want you to know how much I appreciate your fine efforts over the past few years. I want you also to know that we stand ready to cooperate with you to the fullest extent possible.

You may introduce your colleagues and begin your statement.

Secretary **Baldrige**. Senator, I have a shortened version of my statement I would like to make and leave the longer version on file, if that is all right with you.

Senator **Laxalt**. That is perfectly acceptable.

Secretary **Baldrige**. Mr. Chairman and members of the subcommittee, I am pleased to appear today to discuss the fiscal 1984 budget for the Department of Commerce. We are requesting a total of $1.4 billion, 18 percent below 1983 and nearly 40 percent below the Carter proposal for 1981. This budget is similar in size and scope to the ones we have presented to you for the past 2 years. I continue to believe that this is the correct level of Federal spending to carry out the basic job of the Commerce Department.

ECONOMIC UPSWING

As you know, the President's economic recovery program is based on limiting tax burdens, reducing the growth of Federal spending, reducing regulatory burden, and supporting a moderate and steady monetary policy. This program is beginning to show results. Economic recovery has started. In the last quarter of 1982, we had the biggest inventory drawdown ever at a time when real final sales were rising by 4.1 percent. In January, industrial production rose nearly 1 percent. Housing starts for the same month were up 36 percent to the highest level since September 1979, almost double the level of the previous January. Incoming durable goods orders, exclusive of Defense orders, were up 10.5 percent. This means that people are beginning to buy things other than automobiles and houses, and it bodes well for future production.

In short, most signs show that the administration's economic projections for this year will be met. But that doesn't mean we should abandon any part of the President's program. Structural problems will keep deficits above $100 billion through fiscal 1988 even if the entire budget plan is enacted. Getting the deficit down is the priority, and the way to achieve that is right here, through cooperation between Congress and the administration.

PROPOSED BUDGET REDUCTIONS

I was pleased to hear that this committee eliminated funds for the Economic Development Administration from the jobs bills passed by the House. My colleagues and I have been trying for years to persuade you to eliminate programs that don't work or that shouldn't use Federal resources. In 1981 I testified that EDA programs could no longer be targeted to the most needy areas because Congress had declared that over 85 percent of the country was a distressed area. That hasn't changed. At best, EDA moved jobs from one place to another, and they do this at tremendous cost to the taxpayer. It has never been proven that they create net new jobs. Unfortunately, trade adjustment assistance hasn't worked either. Nobody likes to see businesses fail, but even with direct Federal assistance, many have not survived. A strong domestic economy coupled with a firm trade policy provides a better answer to these problems than Federal intervention.

So I urge you to reexamine all of the reductions included in the 1984 budget and the reasons behind them. We will never solve the deficit problem unless some hard decisions are made to alter the course of existing programs.

My prepared statement highlights the major new proposals in this budget. Let me summarize them.

FOREIGN COMMERCIAL SERVICE

Last year I spoke to you about our actions to make the Foreign Commercial Service a first-rate, highly professional arm of trade promotion. Since that time, the FCS has merged its 67 foreign offices with our representatives in 48 U.S. cities. This permits foreign posts to deal directly with domestic offices in arranging overseas sales. They used to come through Washington in both directions. That sometimes added delays of as much as 2 or 3 months. Additionally, over 50 percent of our recruits have been private businessmen, most with skills to negotiate with foreign executives in their own language. For example, 2 years ago at our FCS office in Tokyo, only one out of six people could speak Japanese. By the end of the year, five will speak Japanese.

EXPORT TRADING COMPANY ACT

Passage of the Export Trading Company Act has strengthened considerably our efforts to increase exporting. We have held 28 seminars attended by 7,000 businessmen. Many of these were standing room only, and we were forced to turn away people at seminars in New York, Portland and San Francisco. This is an encouraging sign, particularly since participants have paid $50 and up to attend the sessions. I think that program is going to work. We see a real interest in not just those looking into it but trying to figure out how you can follow through on this. I am not talking about 6 months, but we would be ready to process applications for a year or two.

EXPORT ENFORCEMENT

Illegal export of goods and technology continues to be one of our major concerns. This Department was not strong enough in the past, but since the problem was identified in 1981 we have made real progress. We have recruited experienced managers such as Theodore Wu, a former prosecutor from Los Angeles with a very strong record. We also have established a regular training schedule for export enforcement agents, and hired new agents experienced in criminal investigations. The ones that we had before were not.

Senator LAXALT. Are these people all based here?

Secretary BALDRIGE. We have opened two offices on the west coast because we have a lot of cases out there.

This next year is going to require a great deal of restraint from all of us involved in setting trade policies. We must pursue a steady course of promoting exports through export trading companies, enforcing the trade laws that are on the books and avoiding protectionist measures. I cannot overemphasize how important it is to withstand the pressures for protectionist legislation. We have been down that route before with the Smoot-Hawley tariffs in the thirties. In less than 24 months, American exports declined by over

60 percent—I think it is close to 66. Since World War II, we have gained more than any other country from exporting, and we stand to lose more than anyone else from protectionist measures.

ECONOMIC STATISTICS

Under our direction, the Commerce Department has gained its strongest voice in recent memory in budget and economic policy councils. We can further expand our role by developing an ability to measure effects of policy proposals on individual sectors of the economy. A modest increase in 1984 will allow the Under Secretary for Economic Affairs to pursue this project. The competitive assessment program examines the competitive ability of our industries over the next 5 to 10 years on a worldwide basis. We need hard estimates like these in order to make proper policy. Therefore, we are proposing an increase of nearly $1 million to speed up the pace and improve the reports that the program produces.

Mr. Chairman, we had in the Bureau of Industrial Economics the ability to study any particular industry, group, and the studies will be bringing up to date for this year what has happened the last year and the years before. But there was no study for the future and there was no study of what our competitors around the world were doing for the future. So now this effort will enable us to take computer industries, chemical industries, whatever, and project what will happen in 5 or 10 years with the forces that work around the world. So it is not just industry study. We need that for us to make policy or decide not to make policy.

PATENT AND TRADEMARK OFFICE

Fiscal 1984 is the third year of our 6-year program to revitalize the Patent and Trademark Office. When this administration started, we found patent pendency at 22 months and heading for 36 months by 1987. We have reversed that trend. But we still need more patent examiners to reach our goal of 18-month pendency by 1987. The 1984 budget also meets the administration's commitment to provide a constant level of support for the Minority Business Development Agency.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

NOAA has recently completed a far-reaching reorganization to strengthen its management and improve delivery of services to the public. For fiscal 1984, ocean climate studies will be expanded, and higher user fees are proposed for mapping programs. For the marine fisheries programs, budget reductions are directed at those programs that provide benefits primarily to individual industries or localities. Fiscal 1984 budget increases for NOAA will fund improvements in weather forecast technology through the next generation radar, weather research and satellite programs. We also have begun a comprehensive study to determine the most cost-effective method of operating for the National Weather Service.

Just this week, the President has decided to transfer weather and Landsat satellites to the private sector. This will require approval of Congress, and we are working on draft legislation for that purpose. I must say there have been some incorrect statements reported. The President's decision was just to go out and find out various ways to transfer this. But if we don't like this, in concert with the Congress, the oversight committees, if we don't like the responses, if it doesn't make sense for any reason, we wouldn't do it. It is that kind of a decision. We will give them the chance to bid and see what comes about through it.

MANAGEMENT IMPROVEMENTS

Finally, the Commerce Department has cleaned its own house. We've launched major projects needed to bring management closer to the practices of successful businesses, and we have had some real success. For example:

Our new, aggressive debt management program collected over $170 million in fiscal 1982.

We have cleared up over 1,000 unresolved Inspector General and GAO audits.

We are collecting suggestions for cost reductions from workers at all levels of the Department. Their proposals already have produced savings of $12.5 million.

We are continuing to improve our administrative systems. By midsummer, we will have one payroll system where there once were five and next year we will install a new system for handling small purchases. Together, these will save about $3 million per year.

We also are extending these efforts to the field. A pilot project in Seattle is providing central administrative services to all Commerce units in 10 Western States. We expect to implement this approach for the remainder of the country within the next year.

In short, we are trying to do our job more effectively at less cost to the taxpayer.

This concludes my formal statement. My colleagues and I will be pleased to answer your questions.

[The prepared statement of Secretary Baldrige follows:]

PREPARED STATEMENT OF MALCOLM BALDRIDGE
SECRETARY OF COMMERCE

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE, I AM PLEASED TO APPEAR TODAY TO DISCUSS THE FISCAL 1984 BUDGET FOR THE DEPARTMENT OF COMMERCE. WE ARE REQUESTING A TOTAL OF $1.4 BILLION, 18 PERCENT BELOW 1983 AND NEARLY 40 PERCENT BELOW THE CARTER PROPOSAL FOR 1981. THIS BUDGET IS SIMILAR IN SIZE AND SCOPE TO THE ONES WE HAVE PRESENTED TO YOU FOR THE PAST TWO YEARS. I CONTINUE TO BELIEVE THAT THIS IS THE CORRECT LEVEL OF FEDERAL SPENDING TO CARRY OUT THE BASIC JOB OF THE COMMERCE DEPARTMENT.

AS YOU KNOW, THE PRESIDENT'S ECONOMIC RECOVERY PROGRAM IS BASED ON LIMITING TAX BURDENS TO THE MINIMUM NECESSARY, REDUCING THE GROWTH OF OVERALL FEDERAL SPENDING, REDUCING THE REGULATORY BURDEN, AND SUPPORTING A MODERATE AND STEADY MONETARY POLICY. THIS PROGRAM IS BEGINNING TO SHOW RESULTS. ECONOMIC RECOVERY HAS STARTED. IN THE LAST QUARTER WE HAD THE BIGGEST INVENTORY DRAWDOWN EVER AT A TIME WHEN REAL FINAL SALES WERE RISING BY 4.1 PERCENT. INDUSTRIAL PRODUCTION ROSE NEARLY ONE PERCENT IN JANUARY. HOUSING STARTS FOR THE SAME MONTH WERE UP 36 PERCENT TO THE HIGHEST LEVEL SINCE SEPTEMBER 1979, ALMOST DOUBLE THE LEVEL OF THE PREVIOUS JANUARY. INCOMING DURABLE GOODS ORDERS, EXCLUSIVE OF DEFENSE, WERE UP 10.5 PERCENT.

IN SHORT, MOST OF THE SIGNS SHOW THAT THE ADMINISTRATION'S ECONOMIC PROJECTIONS FOR THIS YEAR WILL BE MET. BUT THAT DOESN'T MEAN WE CAN ABANDON ANY PART OF THE PRESIDENT'S PROGRAM. STRUCTURAL PROBLEMS WILL KEEP DEFICITS ABOVE $100 BILLION THROUGH FISCAL 1988 EVEN IF THE ENTIRE BUDGET PLAN IS ENACTED. SO RESTRAINING FEDERAL SPENDING MUST CONTINUE TO BE ONE OF OUR HIGHEST PRIORITIES.

I WAS PLEASED TO HEAR THAT THIS COMMITTEE ELIMINATED FUNDS FOR THE ECONOMIC DEVELOPMENT ADMINISTRATION FROM THE JOBS BILL PASSED BY THE HOUSE. MY COLLEAGUES AND I HAVE BEEN TRYING FOR TWO YEARS TO PERSUADE YOU TO ELIMINATE PROGRAMS THAT DON'T WORK OR THAT SHOULDN'T USE FEDERAL RESOURCES. IN 1981 I TESTIFIED THAT EDA PROGRAMS COULD NO LONGER BE TARGETED TO THE MOST NEEDY AREAS BECAUSE CONGRESS HAD DECLARED THAT OVER 85 PERCENT OF THE COUNTRY WAS A DISTRESSED AREA. THAT HASN'T CHANGED. AT BEST, EDA PROGRAMS MOVE JOBS FROM ONE PLACE TO ANOTHER, AND THEY DO THIS AT TREMENDOUS COST TO THE TAXPAYER. FULLY 40 PERCENT OF EDA LOANS WERE UNDERWATER WHEN AUDITED IN 1981. WE HAVE CONTINUED TO TRACK THIS FIGURE, AND IT HAS REMAINED ABOUT THE SAME. EVEN WITH EXPENSES LIKE THIS, IT HAS NEVER BEEN PROVEN THAT THEY CREATE NET NEW JOBS. WHY SHOULD WE CONTINUE TO ADD TO THE DEFICITS THAT DELAY A BROAD-BASED RECOVERY WITH THIS KIND OF FEDERAL SPENDING?

TRADE ADJUSTMENT ASSISTANCE HASN'T WORKED EITHER. NO ONE LIKES TO SEE BUSINESSES FAIL. BUT THE FACT IS THAT THE FIRMS THAT RECEIVED OUR ASSISTANCE HAVE SUFFERED FROM PROBLEMS OTHER THAN COMPETITION FROM IMPORTS. FULLY 60 PERCENT OF ASSISTED FIRMS ARE DELINQUENT OR HAVE SUBSEQUENTLY FAILED. EVEN WITH TRADE ADJUSTMENT ASSISTANCE, THEY HAVE BEEN UNABLE TO SURVIVE. A STRONG DOMESTIC ECONOMY COUPLED WITH A FIRM TRADE POLICY PROVIDES A MUCH MORE LASTING ANSWER TO THESE PROBLEMS THAN FEDERAL INTERVENTION.

I COULD CONTINUE IN THIS VEIN THROUGH THE REMAINDER OF THE REDUCTIONS INCLUDED IN THE FISCAL 1984 BUDGET. LET ME SIMPLY URGE YOU TO REEXAMINE ALL OF THESE PROPOSALS AND THE REASONS BEHIND THEM. WE WILL NEVER SOLVE THE DEFICIT PROBLEM UNLESS SOME HARD DECISIONS ARE MADE TO ALTER THE COURSE OF EXISTING PROGRAMS THAT AREN'T WORKING.

LET ME TURN NOW TO PROGRAMS THAT ARE WORKING. LAST YEAR I

PRESENTED MY FOUR MAJOR GOALS:

- INCREASE AMERICA'S COMPETITIVENESS IN THE WORLD ECONOMY.
- STIMULATE PRODUCTIVITY, ECONOMIC RECOVERY AND GROWTH.
- MANAGE EFFECTIVELY THE OCEANIC AND ATMOSPHERIC RESOURCES OF THE U.S.
- IMPROVE SERVICE DELIVERY AND INTERNAL MANAGEMENT.

WE NOW HAVE TWO YEARS OF EXPERIENCE WITH THE MANAGEMENT-BY-OBJECTIVES SYSTEM THAT WE PUT IN PLACE TO IMPLEMENT THESE GOALS.

THE DEPUTY SECRETARY AND I REVIEW DEPARTMENTWIDE GOALS ON AN ANNUAL BASIS. OUR PROGRAM MANAGERS DEVELOP PLANS FOR REACHING THEM. WE ASSESS THEIR PROGRESS QUARTERLY AND LOOK AT OTHER ISSUES, SUCH AS LEGISLATION OR BUDGET, WHICH ARE IMPORTANT TO PROGRAM SUCCESS. THIS KIND OF ACCOUNTABILITY FOR RESULTS IS NORMAL IN BUSINESS, BUT PRACTICALLY UNHEARD OF IN GOVERNMENT. OTHER DEPARTMENTS ARE FOLLOWING COMMERCE'S EXAMPLE AND INSTALLING SIMILAR SYSTEMS.

THE MANAGEMENT-BY-OBJECTIVES SYSTEM HAS ALSO BEGUN TO CONTRIBUTE TO OUR BUDGET DECISIONS. IT HAS HELPED TO SET PRIORITIES AMONG PROPOSALS AND TO REALLOCATE RESOURCES WITHIN A SHRINKING BUDGET. THE $1.4 BILLION PROPOSAL FOR FISCAL 1984 ACTUALLY CONTAINS SOME $75 MILLION IN NEW OR EXPANDED EFFORTS. I WOULD LIKE TO HIGHLIGHT THEM FOR YOU IN THE CONTEXT OF THE FOUR MAJOR GOALS I MENTIONED EARLIER.

INCREASING COMPETITIVENESS

THE INTERNATIONAL TRADE ADMINISTRATION (ITA) BEARS THE MAJOR responsibility for carrying out the first goal, that of increasing America's competitiveness. Last year I spoke to you about our actions to make the Foreign Commercial Service (FCS) a first-rate, highly professional arm of trade promotion. Since that time, ITA has merged its FCS offices in 67 countries with its representatives in 48 U.S. cities. This permits foreign posts to deal directly with domestic offices in arranging overseas sales. Additionally, over 50 percent of our recruits have been private businessmen, most with skills to negotiate with foreign executives in their own language. For example, recent additions include the former president of the American Chamber of Commerce in Germany to head the FCS office there, and a former Executive Vice President for international sales who can speak five languages to manage our Brussels office.

Passage of the Export Trading Company Act of 1982 has strengthened considerably our efforts to increase exporting. ITA already has begun to implement the Act. We have held 28 seminars attended by 7,000 businessmen and were forced to turn people away at seminars in New York, Portland and San Francisco. This is an encouraging sign for the future of increased exporting, particularly since the participants have paid to attend the sessions. We also are continuing to improve trade information products, and are shifting a greater portion of the costs of these products to the users who receive their benefits.

Illegal export of goods and technology continues to be one of our major concerns. This Department was not strong enough in the past, but since we recognized this problem in 1981, we have made real progress strengthening our export enforcement program. We have recruited experienced top-level personnel, including a former Assistant U.S. Attorney from Los Angeles with a very strong prosecution record, and the former Deputy Commissioner for Customs who has long experience in this field; we have

ESTABLISHED A REGULAR TRAINING SCHEDULE AT THE FEDERAL LAW ENFORCEMENT TRAINING CENTER TO TRAIN OUR PRESENT CADRE; AND WE HAVE HIRED 27 NEW AGENTS WITH PREVIOUS INVESTIGATIVE EXPERIENCE. THE 1984 BUDGET MAKES THESE ACTIONS PERMANENT AND UPGRADES COMPUTER SUPPORT FOR THE LICENSING AND ENFORCEMENT SYSTEM.

THIS NEXT YEAR IS GOING TO REQUIRE A GREAT DEAL OF RESTRAINT FROM ALL OF US INVOLVED IN SETTING TRADE POLICIES. THE BEGINNING OF ECONOMIC RECOVERY IN THIS COUNTRY MEANS WE WILL SEE A TEMPORARY SURGE IN THE TRADE DEFICIT. WE WILL BE ABLE TO PURCHASE MORE IMPORTS AND OUR OWN EXPORTS WILL BE RELATIVELY MORE EXPENSIVE IN THE SHORT TERM. BUT STRONG PERFORMANCE OF THE U.S. ECONOMY SHOULD LEAD TO IMPROVEMENTS IN THE WORLD ECONOMY. IN THE MEANTIME, WE MUST PURSUE A STEADY COURSE OF PROMOTING EXPORTS THROUGH EXPORT TRADING COMPANIES, ENFORCING THE TRADE LAWS THAT ARE ON THE BOOKS AND AVOIDING PROTECTIONIST MEASURES.

I CANNOT OVEREMPHASIZE HOW IMPORTANT IT IS TO WITHSTAND THE PRESSURES FOR PROTECTIONIST LEGISLATION. WE HAVE BEEN DOWN THAT ROUTE BEFORE WITH THE SMOOT-HAWLEY TARIFFS IN THE 1930S. IN LESS THAN 24 MONTHS, AMERICAN EXPORTS DECLINED BY OVER 60 PERCENT. SINCE WORLD WAR II, WE HAVE GAINED MORE THAN ANY OTHER COUNTRY FROM EXPORTING. THE REVERSE IS ALSO TRUE -- WE WOULD STAND TO LOSE MORE THAN ANYONE ELSE FROM PROTECTIONIST MEASURES. THESE WOULD SURELY LEAD TO RETALIATIONS AND COULD CHOKE OFF WORLDWIDE RECOVERY.

STIMULATE PRODUCTIVITY, ECONOMIC RECOVERY AND GROWTH

IN 1984 WE ARE ASKING YOU TO CONSIDER ADDITIONAL FUNDS FOR SEVERAL ACTIVITIES THAT WILL HELP TO STIMULATE PRODUCTIVITY, ECONOMIC RECOVERY AND GROWTH.

THE ECONOMIC AFFAIRS PROGRAMS ALREADY PROVIDE A WIDE RANGE OF

INFORMATION WHICH HAS HELPED US TO MAKE CRUCIAL CHOICES ON ECONOMIC POLICY. THE COMMERCE DEPARTMENT HAS GAINED ITS STRONGEST VOICE IN RECENT MEMORY IN BUDGET AND ECONOMIC POLICY COUNCILS. WE CAN FURTHER IMPROVE OUR CONTRIBUTIONS TO ECONOMIC POLICY DECISIONS BY DEVELOPING THE ABILITY TO MEASURE EFFECTS OF POLICY PROPOSALS ON INDIVIDUAL SECTORS OF THE ECONOMY. A MODEST INCREASE IN 1984 WILL ALLOW THE UNDER SECRETARY FOR ECONOMIC AFFAIRS TO PURSUE THIS OBJECTIVE. THE COMPETITIVE ASSESSMENT PROGRAM EXAMINES FOR THE FIRST TIME OUR COMPETITIVE ABILITY AROUND THE WORLD OVER THE NEXT 5 TO 10 YEARS. WE NEED HARD ESTIMATES LIKE THESE IN ORDER TO MAKE PROPER POLICY. THEREFORE, WE ARE PROPOSING AN INCREASE OF NEARLY ONE MILLION DOLLARS TO SPEED UP THE PACE AND INCREASE THE QUALITY OF REPORTS THAT THE PROGRAM PRODUCES.

OUR FISCAL 1984 BUDGET CONTAINS THE FIRST FUNDS FOR PLANNING THE 1990 CENSUS. OUR OBJECTIVE IS TO MAINTAIN HIGH LEVELS OF ACCURACY AT A LOW COST RELATIVE TO THE 1980 CENSUS. TO ACCOMPLISH THIS, WE ARE STUDYING WAYS TO STREAMLINE DATA COLLECTION METHODS AND AUTOMATE DATA PROCESSING ACTIVITIES WHEREVER POSSIBLE. IT IS A LITTLE-KNOWN FACT THAT THE REST OF THE WORLD -- CHINA AND SAUDI ARABIA, FOR EXAMPLE -- IS COMING TO US FOR GUIDANCE ON SETTING UP THEIR OWN CENSUSES. THIS MAKES IT MUCH EASIER FOR THE U.S. TO COLLECT AND ANALYZE INFORMATION ABOUT THESE COUNTRIES. DATA COLLECTION FOR THE SURVEY OF INCOME AND PROGRAM PARTICIPATION ALSO BEGINS IN 1984. RESULTS OF THIS SURVEY WILL HELP IN MEASURING EFFECTIVENESS OF FOOD STAMP, SUBSIDIZED HOUSING AND OTHER PROGRAMS DESIGNED TO AID THE NEEDY.

FISCAL 1984 IS THE THIRD YEAR OF OUR SIX-YEAR PROGRAM TO REVITALIZE THE PATENT AND TRADEMARK OFFICE (PTO). AT THE BEGINNING OF THE REAGAN ADMINISTRATION, WE FOUND PATENT PENDENCY AT 22 MONTHS AND HEADING FOR 36 MONTHS BY 1987. WE REVERSED THAT TREND, AND WILL REACH 18-MONTH PENDENCY BY 1987. WITHIN THE

PAST YEAR, WE HAVE SIGNED AGREEMENTS WITH THE EUROPEAN AND JAPANESE PATENT OFFICES TO LINK AUTOMATED PATENT AND TRADEMARK FILES. IN RECOGNITION OF THEIR PROGRESS TO DATE, PRESIDENTIAL COUNSELOR EDWIN MEESE HONORED PTO EMPLOYEES FOR THEIR OUTSTANDING ACHIEVEMENTS. ALTHOUGH THE LANDMARK PATENT FEE LEGISLATION ENACTED IN 1982 REDUCES THE APPROPRIATION NEEDED FOR PTO OPERATIONS, ADDITIONAL STAFF IS REQUIRED TO REACH OUR GOAL OF 18-MONTH PENDENCY FOR PATENT APPLICATIONS BY 1987.

AT THE NATIONAL BUREAU OF STANDARDS, RESEARCH WILL CONTINUE ON FUNDAMENTAL MEASUREMENT TECHNIQUES AND STANDARDS FOR HIGH TECHNOLOGY INDUSTRIAL APPLICATIONS. FOR EXAMPLE, WE ARE WORKING WITH THE ROBOTICS INDUSTRY TO DEVELOP STANDARD CONNECTIONS FOR AUTOMATED MANUFACTURING COMPONENTS, AND ARE CONDUCTING RESEARCH ON MEASUREMENT AND APPLICATIONS OF COMPOSITE MATERIALS. SHORT-TERM APPLIED R&D EFFORTS WILL BE LIMITED, AND THE CENTERS FOR FIRE RESEARCH AND BUILDING TECHNOLOGY WILL BE CLOSED, SINCE THESE ACTIVITIES ARE MORE APPROPRIATELY CONDUCTED BY STATE AND LOCAL GOVERNMENTS, AND THE PRIVATE SECTOR. THE NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION WILL INCREASE ITS EMPHASIS ON INTERNATIONAL TELECOMMUNICATIONS ISSUES, SINCE LARGE-SCALE DOMESTIC POLICY DEVELOPMENT EFFORTS ARE NO LONGER REQUIRED. THE PUBLIC TELECOMMUNICATIONS FACILITIES GRANT PROGRAM WILL BE DISCONTINUED IN 1984, BECAUSE 95 PERCENT OF THE NATION NOW RECEIVES PUBLIC BROADCAST SIGNALS.

THE 1984 BUDGET ALSO MEETS THE ADMINISTRATION'S COMMITMENT TO PROVIDE A CONSTANT LEVEL OF SUPPORT FOR THE MINORITY BUSINESS DEVELOPMENT AGENCY. THE 100 BUSINESS DEVELOPMENT CENTERS NOW IN OPERATION WILL CONTINUE TO DELIVER SERVICES TO THE MINORITY BUSINESS COMMUNITY.

MANAGING OCEANIC AND ATMOSPHERIC RESOURCES

THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION (NOAA) HAS RECENTLY COMPLETED A FAR-REACHING REORGANIZATION TO STRENGTHEN ITS MANAGEMENT OF OUR OCEANIC AND ATMOSPHERIC RESOURCES AND IMPROVE DELIVERY OF SERVICES TO THE PUBLIC. FOR FISCAL 1984, EFFORTS WILL BE EXPANDED IN OCEAN CLIMATE STUDIES, AND ADDITIONAL USER FEES ARE PROPOSED FOR MAPPING PROGRAMS. THE SEA GRANT PROGRAM IS AGAIN SCHEDULED FOR ELIMINATION, SINCE WE BELIEVE THAT THIS ACTIVITY SHOULD BE DIRECTLY SUPPORTED BY THE INTERESTS IT SERVES.

FOR THE MARINE FISHERIES PROGRAMS, WE ARE CONCENTRATING OUR EFFORTS ON MANAGING FISHERIES RESOURCES. FOR FISCAL 1983, A SUPPLEMENTAL APPROPRIATION OF $20 MILLION IS NEEDED FOR A ONE-TIME PAYMENT TO RESIDENTS OF THE PRIBILOF ISLANDS. WE EXPECT THIS PAYMENT TO ESTABLISH A SELF-SUSTAINING LOCAL ECONOMY AND ELIMINATE THE NEED FOR FUTURE GOVERNMENT SUPPORT. FISCAL 1984 REDUCTIONS IN FISHERIES PROGRAMS ARE DIRECTED AT THOSE ACTIVITIES THAT PROVIDE BENEFITS PRIMARILY TO INDIVIDUAL INDUSTRIES OR LOCALITIES.

BUDGET INCREASES FOR NOAA ARE PROPOSED FOR IMPROVEMENTS IN WEATHER FORECAST TECHNOLOGY THROUGH THE NEXT GENERATION RADAR, WEATHER RESEARCH AND SATELLITE PROGRAMS. WE ALSO HAVE BEGUN A COMPREHENSIVE STUDY TO DETERMINE THE MOST EFFECTIVE METHOD OF OPERATING FOR THE NATIONAL WEATHER SERVICE. WE EXPECT RESULTS OF THIS STUDY TO INFLUENCE FUTURE BUDGET PROPOSALS. BEGINNING IN 1984, SUBSTANTIAL SAVINGS WILL BE ACHIEVED BY STREAMLINING WEATHER SERVICE MANAGEMENT AND ELIMINATING OBSOLETE COMMUNICATIONS EQUIPMENT.

THE PRESIDENT HAS ANNOUNCED HIS DECISION TO TRANSFER WEATHER AND LANDSAT SATELLITES TO THE PRIVATE SECTOR. OUR PLAN IS TO SOLICIT

COMPETITIVE BIDS FOR EITHER OR BOTH SATELLITE SYSTEMS. THIS WILL REQUIRE APPROVAL OF CONGRESS, AND WE ARE WORKING ON DRAFT LEGISLATION FOR THAT PURPOSE.

IMPROVE SERVICE DELIVERY AND INTERNAL MANAGEMENT

IN THE LAST TWO YEARS, WE HAVE LAUNCHED THE MAJOR PROJECTS NEEDED TO BRING MANAGEMENT OF THIS DEPARTMENT CLOSER TO THE PRACTICES OF SUCCESSFUL BUSINESSES. THE MANAGEMENT-BY-OBJECTIVES SYSTEM WE HAVE ESTABLISHED IS OUR PRINCIPAL MANAGEMENT TOOL. IT LETS US TACKLE ADMINISTRATIVE AS WELL AS PROGRAM PROBLEMS AND TRACK THEIR PROGRESS FOR THE ENTIRE DEPARTMENT. WE HAVE HAD SOME REAL SUCCESS IN OUR FIRST TWO YEARS AS A RESULT. FOR EXAMPLE:

o WE HAVE INSTITUTED AN AGGRESSIVE DEBT MANAGEMENT PROGRAM THAT IN FISCAL 1982 COLLECTED OVER $170 MILLION OWED TO THE TAXPAYERS. DATA FOR PRIOR YEARS DOES NOT EXIST, SO NO COMPARISONS CAN BE MADE. THAT FACT IN ITSELF SHOWS THAT PROPER MANAGEMENT WAS LACKING.

o WE HAVE CLEARED UP OVER 1,000 INSPECTOR GENERAL AND GAO AUDITS WHICH HAD BEEN UNRESOLVED FOR OVER SIX MONTHS.

o WE HAVE STARTED A CAMPAIGN TO COLLECT SUGGESTIONS FOR COST REDUCTIONS FROM WORKERS AT ALL LEVELS OF THE DEPARTMENT. THEIR PROPOSALS HAVE YIELDED SAVINGS OF $12.5 MILLION IN THE FIRST 15 MONTHS.

o WE ARE CONTINUING TO DESIGN AND IMPROVE ADMINISTRATIVE SYSTEMS, AS I OUTLINED LAST YEAR. BY MID-SUMMER, WE EXPECT TO HAVE ONE PAYROLL SYSTEM WHERE THERE ONCE WERE FIVE. NEXT YEAR, WE WILL INSTALL A SINGLE, UNIFORM SYSTEM FOR SMALL PURCHASES. TOGETHER THESE TWO IMPROVEMENTS WILL SAVE ABOUT $3 MILLION PER YEAR.

- We also are extending these efforts to the field. Up to now, each bureau in the Department has had its own structure for field support. The pilot project in Seattle is providing legal and administrative services to all Commerce units in 10 western states. An evaluation just completed confirms that this approach is sound, and we will be implementing it for the remainder of the country within the next year.

Last year Congressman Hightower wondered if we had shared any of our ideas for improvements with other Cabinet Departments. We indeed have produced enough positive results to attract attention from other parts of the Administration. The President's Reform '88 campaign has picked up or is studying a number of our projects. For example, Reform '88 is using the Department's consolidated management systems as a cost-effective model for other Cabinet Secretaries to consider.

I hope that I can count on your continued support for all such efforts designed to help us do our job more effectively at less cost to the taxpayer.

This concludes my formal statement. My colleagues and I will be pleased to answer your questions.

INCREASES FOR EXPORT PROGRAMS

Senator LAXALT. Very well, thank you. We will have a number of detailed questions which we will be submitting and we would like to have them answered within a reasonable period.

The Department is proposing an increase of $1,000,000 in the export administration program of the International Trade Administration, and a $1,670,000 increase in the export enforcement program.

I wonder if you or some of your people can explain the problems that prompted these requests and how the funds will be used.

Secretary BALDRIGE. Well, it goes back to the controllability of exports, Mr. Chairman. We found when I came here that we were not doing an adequate job in that area, so we took steps beginning when the problem was identified back in 1981 and we reorganized the whole approach to export enforcement. We recruited top-level personnel, the chap Wu, and we also recruited the Deputy Commissioner in Customs who has experience in this area to improve our cooperation with Customs and vice versa. We have established regional offices in Los Angeles and San Francisco because they have become major points of exit for high technology items, and we have reprogramed $1.5 million in fiscal 1983 to increase the staff in this area. We didn't have enough staff to keep up everything. We have hired 27 new agents with previous investigative experience and we have established a training schedule for the rest of the investigators in Federal law enforcement. The 1984 request of $2.7 million increases the computer support that we need, $1,670,000 and 35 positions for increased staff, and another million dollars for computer support to improve processing of export licensing information. It is difficult enough for American business to get export licenses without having to wait on computer support.

I would like to add that some have suggested that Commerce not have responsibility for export enforcement. I thoroughly disagree with that. It is the process of export license applications that gives them choice of information on export things and official exports that can be used and be of tremendous help to the investigative effort. We have too much information going from one to the other.

Senator LAXALT. Do my colleagues have any questions in this particular area?

Senator SPECTER. Not in that area, Mr. Chairman.

INCOMPLETE EDA PROJECTS

Senator LAXALT. Several of my colleagues, notably Senator McClure of Idaho, have expressed concerns about the funding of incomplete projects of the Economic Development Administration. Is it the policy of the Department that incomplete public works projects financed partially or entirely through the EDA be given a higher priority for funds than new projects?

Secretary BALDRIGE. Yes, sir, that is correct.

Senator LAXALT. So I can pass that on to Jim and the others.

Are there any inquiries in this area?

Senator RUDMAN. There is general disagreement on the Economic Development Administration this year, and the Secretary knows my feelings, and that is something we will have to discuss.

DECENNIAL CENSUS UNDERCOUNTS

Senator **Laxalt**. The 1980 census results were criticized by various State and local governments for failing to accurately count all the residents of certain areas. What is being planned to avoid this problem in 1990?

Secretary **Baldrige**. Well, we were not only criticized, we were sued, which is a severe form of criticism.

To the best of my knowledge, we have won all the suits. I think that you have to step back and look at the Bureau of Census. I would make the statement that I believe we can back up without qualifications: the U.S. Bureau of Census is the best census outfit in the world. Now, it has been said many times, you can get up to—I don't know whether you want to call it 95 or 98—98 percent accuracy and get from 97 to 99.9, it costs do you twice as much to get the 99.9. I am drawing that out of the air to get the point across.

We certainly did have problems with the census, but the 1980 census was better than the 1970 and the 1970 was better than the 1960. And there is always something you want to keep in mind: how much cost you want to assume to get perfection? If you look at it that way, yes, we could improve the 1990 census over the 1980 census like the Census Bureau did before. We are asking for $18.9 million in 1984 as the first year of financing for the 1990 census. This request will be used to study what potential there is for increased automation, study alternative methods for taking the census—individual enumerations of all areas, sampling procedures in some—investigate other data collection procedures, drop off mail back to State census, list development, and there are other things.

This will be studied and will improve our accuracy and cost.

We have three major goals, Mr. Chairman, for the 1990 census: First, continued high coverage of the population and housing inventory while reducing the minority undercount. There are a lot of factors that go into that. Some of the responses grossly exaggerated what the present income is.

Second, we need also more timely tabulation of census data, hot off the griddle, as it were, and third, the completion of the 1990 census should be a lower cost per head relative to the 1980 census. We should be able to improve it and still be able to lower the cost.

Those are our goals and this will be our first step. We don't have a final estimate for the 1990 estimate, do we?

Mr. **Fiske**. GAO came out with some high numbers. We certainly won't come close to reaching it; $4 billion.

Secretary **Baldrige**. In response to your question, Mr. Chairman, on the problems that we have, we are going to be beginning in 1983 seeking the advice of the cities and States.

Senator **Laxalt**. Senator Specter.

Senator **Specter**. Not on this area, thank you.

PROPOSALS FOR A DEPARTMENT OF TRADE

Senator **Laxalt**. I will move to one more area and then I will turn it over to my colleagues, recognizing that we are under time constraints.

There have been discussions underway concerning the possible creation of a cabinet-level Department of Trade which would incorporate the Office of the U.S. Trade Representative and the trade functions of the Commerce Department in one organization.

What would be the merits of such an arrangement, and what are your views on the subject?

Secretary **Baldrige**. I think it is complex. Trade responsibilities are spread out all over the U.S. Government. I have never seen anything organized like that in my life.

Senator **Rudman**. The Government or that particular function?

Secretary **Baldrige**. Both. Both Ambassador Brock and I feel there is some consolidation necessary. I don't think either of us has any particular plan. I do have some ideas but I don't feel I should talk about them today. The President is now considering options and we don't have the administration's position yet. I don't think it is appropriate for me while the President is considering options to say anything.

Senator **Laxalt**. I understand. Has this been referred to Cabinet Council?

Secretary **Baldrige**. It has been through the Cabinet Council. It went through the Cabinet Council on Commerce and Trade. As you know the way it works, I am chairman pro tem; the President is the chairman. He listened to various options and he will make up his mind in the near future.

Senator **Laxalt**. Senator Rudman.

SUPPORT FOR EDA

Senator **Rudman**. Thank you, Mr. Chairman. I have a few questions and comments, Mr. Secretary. Regarding EDA, I will repeat what I said last year: I believe the testimony that was presented at the hearings last year was certainly persuasive to what the administration's position has been in terms of EDA not working across the country in a great number of instances. It is kind of a shame those examples which the Government cited as being extraordinary which included some in New Hampshire really encourage private investment in economic depressed areas, particularly up in the Canadian border. In this economically depressed area EDA has very effectively done things through something called North Country Council, which I am sure your folks are familiar with. I am not prepared to say that we ought to examine that completely and so I will probably talk to you and the chairman about ways and means of finding programs to aid those areas which by your own statements within your department work.

BUDGET REDUCTIONS IN NOAA

I want to talk to you about the NOAA situation for a moment, not the one that is on the front page of the papers but on some other NOAA items. Again, there is a proposal for the elimination of the sea-grant program, a $35 million program which in New England, as I think you are aware, particularly in Connecticut, Rhode Island, right up the coast, has very effectively produced a lot of interest in the private sector. It has also done a great deal for our universities in the New England area who are one of the principal beneficiaries of this program. I wonder with such a small amount of money that has produced some good results why the administration continues to try to eliminate this program? It is so small and has done so much good, I don't really understand.

Secretary **Baldrige**. The program provides technical advisory services, research that is of regional or local interest with specific industries. In a great many ways the sea-grant program has achieved its goal. It has set up 16 colleges, the States continue to take over more of the financing as they see programs that they want particularly to work out. As a matter of fact, close to half of sea grant funds now comes from the State or private services. In a way that says it is a good program for those specific areas, but we don't think it is one that the Federal Government should support when it is so directed at particular sites and the end results benefit those States and those particular industries.

If it is a real worthwhile program, we think that the combination of States and the private sector should be able to support it, not the whole people of the United States.

Senator **Rudman**. Unquestionably private sector does support it and it has been one of those programs that has attracted a great deal of interest in State government and the private sector. Speaking as a New Englander I have to tell you, it sticks about here sometimes to vote for billions of dollars for the West, the chairman's part of the country—[laughter]—for various water projects——

Senator **Laxalt**. It is all worthwhile. [Laughter.]

Senator **Rudman**. Of which many are worthwhile, and then find with these billions of dollars which are coming out of the entire country going to these projects which have done a great deal to develop the West and are obviously important, to find something this small, $35 million, for we poor New Englanders being taken out of the budget. I may have something to say with the chairman about that.

DEEP SEA MINING PROJECTS

Let's go on to a couple of other items. I think your decision on eliminating the nonliving marine resources, deep sea mining project is probably sound at this time. Maybe we have to review it at some other time in the future, but certainly there is very little private interest at this time on that. Coastal zone management, you will recall, we talked about keeping it for a year or so. I believe that we have now reached the goals in coastal zone management and in fact we have accomplished what we are supposed to be accomplishing; it is not totally an on-going project.

AERONAUTICAL AND NAUTICAL CHARTS

On aeronautical and nautical charts, for which I am one of your best customers, I think it is about time that we started charging the general aviation what it is worth. That is a terrific buy and, quite frankly, I think you can raise the prices considerably and people are still going to buy them compared to what is available from the private sector. They are good and they are too inexpensive right now.

WEATHER SATELLITES

The weather satellite program, obviously we are going to want to know a great deal about that. I have a concern that I have not seen raised anywhere and it is one that I would like to talk to you about at some future point as well as the Defense Department and that is the national security implications of these weather satellites being in private hands. Now, I know we do have some backup in the various agencies, Defense Intelligence and others, however, I also know that certain prime information does come from the satellites that we are speaking of here. I think that is a very important consideration in terms of how we handle that in the private sector.

Mr. Chairman, I really want to get a general response to that point and then that is it.

Senator **Laxalt**. All right.

Secretary **Baldrige**. On your last point, Senator, we have had three studies on this subject which I wasn't completely satisfied with myself. The points you brought up were addressed in the first one. We arranged another one and we have had a private study and there is another one.

There are two safeguards against the program being carelessly drawn up in the areas that you are concerned about. One is, we would be putting the RFP—I forget the acronym—for people to bid on this. We went over those with the proper oversight committees in Congress before they went out and we went over the answer that came back without recommendation, which would include, as a result of an interagency working group with DOD and CIA—all the appropriate intelligence agencies on it made sure they had every safeguard they wanted and that was being adequately addressed and they were satisfied with whatever came out.

Then, after working with Congress, we go to legislation and draw up the specific legislation.

Senator **Rudman**. It seems to me that at the very least, one the security aspects of information no longer being controlled by the Government must be examined; and, two, there are some security aspects to what those satellites see; and, three, I think there will have to be provision, if your feasibility study shows this is something you want to go ahead and do, for immediate Government takeover of these satellites in the event of any declaration by the President they are required for the national interest. I am not sure that the sale is a good idea but you don't know that either. You are now saying you are going to find out if it is a good idea. I am saying, when you finally do decide, if in fact you do, and the Congress agrees with you, there have to be provisions for the Government having the ability to get those back immediately under certain conditions.

Thank you very much, Mr. Chairman.

Senator **Laxalt**. Senator Specter.

STEEL INDUSTRY

Senator **Specter**. Thank you, Mr. Chairman.

Mr. Secretary, I would like to discuss with you this morning a number of aspects about the steel industry that are very important nationally, and especially important to a State like mine, Pennsylvania. It is the major employer in the State, especially in western Pennsylvania, central Pennsylvania, Jamestown, Bethlehem, Coatesville—and I would like to pursue a subject which you and I discussed only briefly last year, the subject of Tidewater. Also in the steel caucus there is a proposal which I have been working on for some time, regarding the opening up of the Federal courts to have jurisdiction on suits brought where there can be proof of foreign subsidies on dumping.

It is my thought, that this kind of an approach might solve a significant part of the problem that is confronting the administration at this time to stave off a variety of protectionist programs. Wherever I go, and I have been at town meetings all over Pennsylvania, there is an increased trend toward protectionism. I came from midland Pennsylvania on Saturday, where a high school auditorium was filled with people, and the steel mill had closed there in June with the ensuing loss of 500 jobs. The demand there was for quotas, tariffs, imports, and I have revised that proposal because I share your view that protectionism is unwise in the long run for this country.

COUNTERVAILING DUTIES SUITS

In developing the legislation which was S. 2167 in the last session of Congress, and S. 418 in this session, what I tried to do was devise a procedure where American industries like steel, and others, can go directly to court. If they can show subsidies, which are unfair foreign trade practices, the company could get an injunction. The reason I pursue this line is because the procedures under the International Trade Commission have many problems in a number of respects, and I have further defined the legislation to have only one court, the District of Columbia jurisdiction. This would avoid having a Federal court in Pittsburgh or a Federal court in Birmingham under some special pressure, albeit Federal injunctions are not subject to impression, but would have it in the District of Columbia as we have the voting rights. I would be interested in your thinking on that subject at this time.

Secretary **Baldrige**. Well, I don't really like to disagree with you, Senator, but disagree I must for a couple of reasons. One is, when the steel industry brought their suits in January 1982, we—in a complicated way by putting 70 people to work here and abroad—were able to come in with some scientific and objective data to show there were subsidies in the steel mills in most cases and yet abandoned the temporary determination in 5 months.

Now, what can you do in a month? It wasn't obvious. We have to expect to be sued on both sides of any decision we make and we frequently are. I can't believe—you are a laywer and I am not—but I just can't believe that if you put something like this in a court of law, that it would not be 2½ years before you come out. They do not have the expertise. A judge sitting and listening to one of these complicated cases of what is subsidy and what isn't when the nature of subsidies is getting more esoteric and ingenious every day. He wouldn't have 70 people at his disposal, he wouldn't do it this fast. So, speed, I don't think, would be as much.

I think, in the second case, we can run into the import problem, human nature being what it is, pointed to by you, union, management, that has got to be the scapegoat for all of the problems of the steel industry, which is not correct.

The steel industry ran at 40-percent capacity for a good part of last year. The imports we are talking about, they got as high as 20 percent. I think that historically they have run closer to 15 percent and will again and the difference between 38 or 40 percent capacity, if there wasn't a pound imported, wasn't that great.

I heard more about imports causing the steel industry's problem—their problems go back a long way to bad management, it goes back to union not being realistic about their demands; there is enough blame to go around.

I am not here to point the finger but it is a common problem that unions and management have to solve. I don't believe imports are the problem. I don't believe they are.

I don't know if that is the answer to your question. I feel very strongly that a judge couldn't handle the subsidy cases, as complicated as they are, as well as a bunch of experts.

ABILITY OF COURTS TO SOLVE COMPLEX ISSUES

Senator **Specter**. I agree there are many problems in the steel industry beyond the issue of imports, but I will come to that in a minute.

I think there is good evidence that the courts can handle these issues. We had very complex litigation in the Marathon Mobil Oil controversy under the antitrust laws, which went to the Federal court in Cleveland. It went a few weeks, there was extensive testimony taken, the judge reached a conclusion, and there was an injunction issued in that case.

Our courts are equipped on injunction action, complicated cases under the Securities Acts and takeovers with reams of materials presented by lawyers. Once an injunction is issued, there can be injunctive relief in the course of a few weeks, and that is that.

The difficulty that I see with the proceedings that you have under the International Trade Commission is that, during the months the proceedings are in process, the imports continue. There cannot be injunctive relief under the International Trade Commission's proceedings and then again on the issue of damages. The damages are prospective only, unless there is some determination made to go back for a period of time so that there are enormous damage issues which are not resolved in the International Trade Commission. We do know that under U.S. law, dumping is illegal. It has been illegal for many many years and it seems to me to be wrong, since the Federal courts can be open to any kind of litigation in this country. Prisoners come in and have a Federal judge run the prison, people come in and have a Federal judge run the education system, class action suits are handled by a Federal judge, and here you have a major industry and many other industries, who only seek a day in court. They want to be able to come in to a court, prove illegal dumping, and get remedies, which are well established injunctions and damages. I have a lot of practice in the courts in these injunction suits in the varieties that I have described. Antitrust laws are enormously complicated, securities laws are enormously complicated by the courts' function with them, and it seems unfair that you can go into court with all these other cases but you can't on an issue that is this important.

Secretary **Baldrige**. I think you have to balance that, Senator, with the inevitable flood of request for injunctions that would in some cases, probably a good many, would be granted that come at a time of recession. In my own opinion that would be starting us down the protectionist path. If you say our trade partners can respond in kind, we can have good tie ups in all kinds of injunctive relief while we are working on it. I understand the problem you are talking about, but this seems to me a greater problem on the other side of the ledger. I can think of a lot of industries that would love to come in to the court and get an injunction, the same ones that came to us and we said if you think you have a case, prove it. We won't accept it, you have got to prove injury.

I worry about the protectionist surge that would come, I would expect a great many requests for injunctions during a recession.

Senator **Specter**. I can understand the problem with our trading partners, but if there is in fact dumping, subsidies, and sales below the cost of production, they are not entitled to sell goods in this country on that basis. It is not protectionist to stop foreign exporters from selling below the cost of production where there are subsidies, such as where the Commerce Department came to the conclusion that British Steel was subsidized $250 a ton. We had a delegation at NATO, a meeting with our British counterparts, and the newspapers verified the kind of subsidies that the English are given.

Last year on the gas tax bill Senator Metzenbaum proposed an amendment, Buy America, and the bill was debated in Congress. I brought in my amendment and it was defeated 51 to 47, with two votes shifted at the last minute.

I will ask you, Mr. Secretary, to give this further consideration.

Secretary **Baldrige**. I will.

Senator **Specter**. This could be a middle ground which might enable many people to veer from the protectionist line, as opposed to the terrible pressures that are on those of us who have to run for election.

We are having hearings on the subject on March 21 on the Judiciary Committee.

Mr. Chairman, may I have a few more minutes? Are we pressed for time?

Senator **Laxalt**. I think Senator Eagleton is.

Senator **Eagleton**. One question.

Senator **Specter**. I will be glad to yield.

Senator **Eagleton**. Thank you, Mr. Chairman.

NBS BUDGET REDUCTIONS

Mr. Secretary, I refer to an item in the budget, which concerns the Center for Building Technology. The Center for Building Technology is near and dear to my heart. At the time of the Hyatt Regency disaster in Kansas City, people were killed, dozens maimed for life and people were asking, what happened, why did it happen, whose fault was it. All those questions were spontaneously asked and all kinds of experts started congregating in Kansas City—this engineer hired by this group and this engineer hired by that group. And out of that chaotic situation a sense of order ensued because the Center for Building Technology came in, made a thorough dispassionate, professional analytical study of the events that occurred and its findings became the bible. Once they made their report, plaintiffs, defendants, outside agents said: This is the bible; this is the answer; we can all rely on it.

Interestingly enough, while they were making this investigation I called them. To see if they needed additional money to offset the cost. I said I would try to put in some funds in the next appropriation bill. They said: "No, this is our job. This is what we were prepared to do. We will do it within the confines of the budget." I know of no other agency that I ever dealt with that declined additional support.

That case history is still fresh in my mind, and I can cite other things the center has done, commendable work in Chicago and Kentucky. Those I know on hearsay basis, but the Hyatt work on direct basis. I can assure you that it would not be in the public interest to save $4 million at the cost of doing away with this group. Can I have your response?

Secretary **Baldrige**. Mr. Fiske will say something.

Mr. **Fiske**. First of all, we are trying to increase the capability of the National Bureau of Standards in this basic area of physical science and engineering and the budget remains intact and would include capabilities such as the fire in Kansas City to do that kind of work.

Senator **Eagleton**. Not the fire, the collapse.

Mr. **Fiske**. To do that kind of work, and we are trying to work on increasing the capability of science and technology throughout the Department. In these particular instances, if you get into the further area of local codes and so forth, and fire research on buildings, there are 580 public and private laboratories doing the work in the United States and we work with most of those providing the basic expertise.

Senator **Eagleton**. But in a situation like the Hyatt, each litigant goes out and hires his or her own expert and it was chaos and the Center for Building Technology was able to bring some sense of order.

Mr. **Fiske**. We have the basic engineering capability to do that. I look on the National Bureau of Standards as being the conscience of our technical standards. As far as I know, the other research done by the private sector and construction companies and local codes and state codes have a big part to play with some of those local rules. We would retain the basic capability that you are talking about.

Senator **Eagleton**. I wish you would take a second look in light of what this Center has done.

Thank you.

STEEL RESEARCH AND DEVELOPMENT

Senator **Laxalt**. Senator Specter.

Senator SPECTER. Mr. Secretary, one line which you touched earlier was about other problems in the steel industry, and one of the big subjects is research and development. I have been contacted by National Steel, which has a proposal in the formative stage. It is trying to make some leaps in technology to reduce seven steps to one in the ingot process, where the possible savings might be as such: $25 a ton for energy, $50 a ton for labor and $25 a ton for maintenance, and the proposals which they are about to submit will be in the neighborhood of $20 to $30 million over 3 years.

My question to you, without giving the details, is how do you feel about the research activity of the Department of Commerce providing that kind of assistance for such a research and development program?

Secretary BALDRIGE. I don't see how we could really, Senator. That would get into the area of the U.S. Government figuring out themselves which R&D projects were the most worthy for the country. You can't do this for one without having a request coming from all over. There you are getting the Government trying to direct R&D. We see the French and the Japanese have done it in the past. We tend to think that they have all turned out just right and they haven't, the Japanese haven't.

By and large it remains to be proven that this Government or any other government in getting funds out for technology R&D by saying yes to some and no to others is right. I happen to know that steel management think it is a good idea. I would rather see the United States allowing joint ventures in R&D among domestic companies that are not allowed now because of the antitrust laws. That way the cream comes to the top naturally. People who are making the decisions now and then have to look at the results.

EFFECT OF ANTITRUST LAW

Senator SPECTER. I didn't understand your reference to the antitrust law. What did you say about that?

Secretary BALDRIGE. Let's say in this particular case that National Steel and no other large steel company wanted to put $25 million into this project. It was either too high-risk for the potential reward or they didn't have any money. But National Steel and one, two, or three other steel companies wanted to make a joint venture to finance this side of this kind of research. It is, I won't say illegal, but it could be illegal, and I know a lot of businessmen would automatically think it is illegal. Right or wrong, that is the situation under our antitrust laws. I think that a function the Government can perform is to take away that application of the antitrust laws to the extent necessary so that you can have joint ventures of large industries or small ones, not just in steel but anywhere, in order to speed up and improve the whole research and development.

Senator SPECTER. You would support an amendment to the antitrust law which would enable that kind of joint research and development work to be done without running the risk of violating the antitrust laws?

Secretary BALDRIGE. I would personally, if that was the best way to do it. We are trying in the interagency process to work out a way that accomplishes just that, but I feel strongly enough about that so if there is no other way to do it.

ENFORCEMENT OF TRADE LAWS

Senator **Specter**. Mr. Secretary, I commend you on the action you are undertaking on enforcement. You have some tough prosecuting attorneys in your department. I think that is great to get the enforcement. That brings to mind the subject which Senator Laxalt and I have discussed in another context, and that is some of the plea bargaining which has been entered in by the Justice Department on the issue of steel imports. There was a major case litigated in San Francisco which led to relatively small fines and a grant of immunity to the Japanese, where there was mislabeling in text on a complicated factual situation. Within the course of the past 6 weeks, I believe it was Hitachi——

Secretary **Baldrige**. IBM.

Senator **Specter**. Major secrets which were stolen from IBM and a $10,000 fine was imposed. My own sense, with the prosecution background, is that that is a good way to deter this kind of conduct. If there were some tough prosecutions, and perhaps even some extraditions from Japan on the individuals who attach responsibility, it might have some therapeutic value. I wonder what your thinking is on that.

Secretary **Baldrige**. It is difficult to comment on Hitachi because that really comes under the criminal code and it was a question of state secrets not of our trade laws, so I haven't studied that enough.

What I would say about that, evidently IBM felt that a plea of guilty, which I understand was nolo——

Senator **Specter**. There is not a whole lot of difference.

Secretary **Baldrige**. A decree of nolo was enough from stopping it in the future. IBM did not have to acquiesce to this small fine.

Senator **Specter**. IBM doesn't have any control over that. That is controlled by the Justice Department and the prosecuting attorney.

Secretary **Baldrige**. I certainly favor the actions necessary to make sure this doesn't happen again, but I am not enough of an expert to comment.

On the steel cases, again, that was where there was mishandling and misrepresentation. The fact is that we think that stop was enough of a deterrent. I have to go over all the steel picture and Japanese exports in the United States to back up that statement. But during this last year the Europeans were going up very strongly and the Japanese were going down. The Japanese steel exports to the United States were down by 34 percent last year. So, the Japanese did try and go down with our market. We have not seen a wholesale rise in the kind of problems you are talking about in Japan.

TRADE ADJUSTMENT ASSISTANCE

Senator **Specter**. Mr. Secretary, are you familiar with the proposed deferral of $20 million appropriated for the trade adjustment assistance program for fiscal year 1983?

Secretary **Baldrige**. The trade adjustment assistance for companies, that is what we had. If you are referring to the trade adjustment systems for companies who have been theoretically affected by imports——

Senator **Specter**. Senator Heinz and I have written to Senator Laxalt expressing our concern about that and I wonder if you could comment about it.

Secretary **Baldrige**. Yes, I can. I think it is one of those ideas that theoretically looks fine but in practice it doesn't work. The companies that are affected that strongly by imports are not always but by and large are companies that would run into that kind of problem anyway. As a result, the imports rise, they are the ones first affected and the trade adjustment system money doesn't solve their problems, they will still go under. The effectiveness of these funds, as I remember, is 60 percent delinquent. So whatever funds we sent out to help them, 60 percent of them have gone under anyway. My feeling is that on the other 40 percent, a good amount of those will not work either.

I like the idea as much as you do, Senator, but nobody knows how to make it work because a lot of those compaines are not going to make it anyway.

PITTSBURGH MINORITY BUSINESS OPPORTUNITY

Senator **Specter**. I have one final question, if I may, Mr. Chairman, and that relates to the Pittsburgh District Office of the Minority Business Opportunity Committee. I met with the director, Mr. Victor Rivera, in Pittsburgh in December of 1982, and was told that the Minority Business Opportunity Committee would stay open. I have since learned that it has been closed, and I would urge you to give consideration, Mr. Secretary, to maintaining that on an open basis. The minority community in Pittsburgh feels very strongly about it, I have taken a look at it, and there is a lot to recommend in retaining the operation if you possibly can.

Secretary **Baldrige**. I will look into it. What we have done generally, I am not familiar with the specifics of Pittsburgh, in general we closed 14 district offices because we thought the workload didn't justify keeping them open. They were staffed by one or two people and they had less than five projects under their supervision. We got minority development centers providing the services to the field and I believe there is one in Pittsburgh. The services are still there. These offices that we closed had less than five projects per office. This affected 17 people, these offices we closed, and we offered them all jobs in the appropriate regional offices and 7 out of 17 accepted. I will look into it.

Senator **Specter**. I would appreciate it if you would because from what I am told, there is a great deal of activity there which would warrant its being kept open.

Thank you, Mr. Secretary.

SUBMITTED QUESTIONS

Senator **Laxalt**. Mr. Secretary, as I indicated at the outset, we do have several other inquiries which we will address to you in writing. We appreciate you all coming.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR LAXALT

GENERAL ADMINISTRATION

QUESTION:

Please provide the Committee with a five year history of each appropriations account within the Commerce Department, including the administration proposal, enacted, enacted supplementals and rescissions and base for each fiscal year.

ANSWER:

The five tables which follow show the appropriation history:

DEPARTMENT OF COMMERCE
1979 Appropriations History
(dollar amounts in thousands)

	Budget Request		Enacted by P.L. 95-431	Supplementals (P.L. 96-38)			Transfers	Budget Authority
	Base	Total		Program	Rescissions	Pay		
General Administration:								
Salaries and expenses	$22,062	$23,172	$24,900	...	...	$740	...	$25,640
Special foreign currency program	...	500	...	...	...	...	...	...
Subtotal	22,062	23,672	24,900	...	...	740	...	25,640
Bureau of the Census:								
Salaries and expenses	48,774	50,745	49,286	...	...	1,747	...	51,033
Periodic censuses and programs	83,398	237,355	196,800	...	...	5,128	...	201,928
Subtotal	132,172	288,100	246,086	...	...	6,875	...	252,961
Economic and Statistical Analysis:								
Salaries and expenses	16,080	16,875	16,430	...	...	547	...	16,977
Economic Development Administration:								
Salaries and expenses	28,243	28,827	29,300	...	...	1,236	...	30,536
Local public works program	15,915	10,607	10,600	...	...	368	...	10,968
Economic development assistance programs	499,500	627,425	507,525	...	...	...	...	507,525
(Direct loan and guarantee limitation)	...	...	(75,000)	($96,000)	...	...	...	(171,000)
Subtotal	543,658	666,859	547,425	...	...	1,604	...	549,029
Regional Development Program:								
Regional development programs	64,894	63,876	62,800	...	...	...	...	62,800
International Trade Administration:								
Operations and administration	69,787	69,733	71,775	...	...	1,798	...	73,573
Minority Business Development Agency:								
Minority business development	49,373	60,559	57,965	...	...	...	...	57,965
United States Travel and Tourism Administration:								
Salaries and expenses	14,543	14,543	13,500	...	...	97	...	13,597
National Oceanic and Atmospheric Administration:								
Operations, research, and facilities	625,350	661,167	660,650	...	...	15,703	$4,000	680,353
Construction	15,500	44,000	...	60,000	...	...	...	60,000
Coastal zone management	50,512	57,279	57,200	6,500	...	140	...	63,840
Fishing vessel and gear damage compensation fund	...	...	...	1,000	...	...	...	1,000
Fishermen's contingency fund	...	...	...	450	...	...	...	450
Coastal energy impact fund	30,111	4,036	...	...	...	...	...	...
Subtotal	721,473	766,482	717,850	67,950	...	15,843	4,000	805,643
National Fire Prevention and Control Administration:								
Operations, research, and administration	14,399	17,826	17,395	...	...	...	-17,395	...

	Budget Request		Enacted by P.L. 95-431	Supplementals (P.L. 96-38)			Transfers	Budget Authority
	Base	Total		Program	Rescissions	Pay		
Patent and Trademark Office:								
Salaries and expenses	95,292	94,753	93,600	...	...	3,054	...	96,654
National Bureau of Standards:								
Scientific and technical research and services	76,504	95,520	87,700	...	...	2,600	...	90,300
National Telecommunications and Information Administration:								
Salaries and expenses	9,929	11,981	11,500	...	...	120	305	11,925
Public telecommunications facilities, planning and construction	...	...	...	...	...	...	18,000	18,000
Subtotal	9,929	11,981	11,500	...	...	120	18,305	29,925
Maritime Administration:								
Ship construction	242,184	157,000	157,000	...	...	...	...	157,000
Operating-differential subsidies	322,500	262,800	250,000	...	...	...	...	250,000
Research and development	18,325	17,500	17,500	...	...	...	...	17,500
Operations and training	56,436	57,328	57,150	...	...	1,366	-625	57,891
Subtotal	639,445	494,628	481,650	...	...	1,366	-625	482,391
Total, Department of Commerce	2,469,611	2,685,407	2,450,576	67,950	...	34,644	4,285	2,557,455

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DEPARTMENT OF COMMERCE
1980 Appropriations History
(dollar amounts in thousands)

	Budget Request		Enacted by P.L. 96-68	Supplementals (P.L. 96-304)			Transfers	Budget Authority
	Base	Total		Program	Rescissions	Pay		
General Administration:								
Salaries and expenses........................	$26,023	$26,612	$27,375	$10,200	-$40	$900	$1,945	$40,380
Bureau of the Census:								
Salaries and expenses........................	52,131	55,632	52,090	...	...	1,600	...	53,690
Periodic censuses and programs..............	202,198	630,974	604,900	27,000 1/	-262	34,400	...	666,038
Subtotal..................................	254,329	686,606	656,990	27,000	-262	36,000	...	719,728
Economic and Statistical Analysis:								
Salaries and expenses........................	17,746	17,898	17,875	...	-43	550	3,653	22,035
Economic Development Administration:								
Salaries and expenses........................	31,075	42,667	...	40,000	-75	900	...	40,825
Economic development assistance programs.....	588,183	716,375	507,525 2/	5,000	...	...	...	512,525
(Direct loan and guaranteed loan limitation)............................	...	(75,000)	...	...	...	...	...	...
Subtotal..................................	619,258	759,042	507,525	45,000	-75	900	...	553,350
Regional Development Program:								
Regional development programs................	63,988	74,005	62,800 2/	...	-5	25	...	62,820
International Trade Administration:								
Operations and administration................	73,136	85,208	77,670	1,200	...	2,600	11,892	93,362
Participation in United States Expositions...	...	...	...	20,800	...	...	...	20,800
Subtotal..................................	73,136	85,208	77,670	22,000	...	2,600	11,892	114,162
Minority Business Development Agency:								
Minority business development................	58,534	58,783	58,689	...	-65	...	326	58,950
United States Travel and Tourism Administration:								
Salaries and expenses........................	13,597	...	8,000	...	-5	...	...	7,995
National Oceanic and Atmospheric Administration:								
Operations, research, and facilities.........	687,631	718,382	702,350	1,500	-840	18,500	5,000	726,510
Coastal zone management......................	57,913	65,978	64,675	5,250	-5	200	...	70,120
Fishing vessel and gear damage compensation fund......................................	3,500	3,500	3,500	...	...	...	...	3,500
Fishermen's contingency fund.................	600	600	600	...	...	...	...	600
Coastal energy impact fund...................	...	4,043	...	...	-35,400	...	...	-35,400
Fishermen's guaranty fund....................	...	...	...	930	...	...	...	930
Subtotal..................................	749,644	792,503	771,125	7,680	-36,245	18,700	5,000	766,260

	Budget Request		Enacted by P.L. 96-68	Supplementals (P.L. 96-304)			Transfers	Budget Authority
	Base	Total		Program	Rescissions	Pay		
Patent and Trademark Office:								
Salaries and expenses	99,231	97,598	99,672	1,000	-170	4,331	...	104,833
National Bureau of Standards:								
Scientific and technical research and services	94,990	100,454	96,528	...	-206	2,700	-763	98,259
National Telecommunications and Information Administration:								
Salaries and expenses	16,788	18,762	17,305	...	-22	361	...	17,644
Public telecommunications facilities, planning and construction	18,000	23,705	23,705	...	...	...	...	23,705
Subtotal	34,788	42,467	41,010	...	-22	361	...	41,349
Maritime Administration:								
Ship construction	443,078	101,000	101,000	...	...	...	...	101,000
Operating-differential subsidies	292,526	256,208	256,208	44,307	...	...	...	300,515
Research and development	17,500	16,360	16,300	...	...	...	...	16,300
Operations and training	59,110	61,472	64,622	1,174	-88	1,133	...	66,841
Subtotal	812,214	435,040	438,130	45,481	-88	1,133	...	484,656
Total, Department of Commerce	2,917,478	3,176,216	2,863,389	158,361	-37,226	68,200	22,053	3,074,777

1/ P.L. 96-352

2/ P.L. 96-86, section 101(e).

DEPARTMENT OF COMMERCE
1981 Appropriations History
(dollar amounts in thousands)

	Budget Request		Enacted by P.L.	Supplementals (P.L. 97-12)				
	Base	Total	96-536	Program	Rescissions	Pay	Transfers	Budget Authority
General Administration:								
Salaries and expenses	$29,809	$39,019	$32,925	...	...	$1,100	$1,912	$35,937
Bureau of the Census:								
Salaries and expenses	55,505	58,268	54,600	...	..	2,600	...	57,200
Periodic censuses and programs	639,393	148,085	146,450	$24,200	...	7,200	...	177,850
Subtotal	694,898	206,353	201,050	24,200	...	9,800	...	235,050
Economic and Statistical Analysis:								
Salaries and expenses	24,616	24,986	24,600	...	...	890	525	26,015
Economic Development Administration:								
Salaries and expenses	63,659	71,299	39,700	...	...	...	...	39,700
Economic development assistance programs	1,074,333	1,169,250	624,650	...	-$187,850	...	...	436,800
(Direct loan limitation)	...	(191,430)	(116,430)	...	...	...	...	(116,430)
(Guaranteed loan limitation)	...	(1,620,000)	(475,000)	...	...	...	...	(475,000)
Subtotal	1,137,992	1,240,549	664,350	...	-187,850	...	...	476,500
Regional Development Program:								
Regional development programs	74,391	74,227	43,838	...	-21,000	...	...	22,838
International Trade Administration:								
Operations and administration	108,816	117,521	107,500	...	...	1,700	-1,818	107,382
Minority Business Development Agency:								
Minority business development	59,777	62,857	59,600	...	...	...	...	59,600
United States Travel and Tourism Administration:								
Salaries and expenses	8,000	...	8,000	...	-41	...	...	7,959
National Oceanic and Atmospheric Administration:								
Operations, research, and facilities	726,694	743,851	759,367	4,677	-23,640	18,216	17,500	776,120
Construction	...	...	...	...	-11,000	...	...	-11,000
Coastal zone management	70,913	52,335	51,585	...	...	...	...	51,585
Fishing vessel and gear damage compensation fund	3,500	3,500	3,250	...	...	...	...	3,250
Fishermen's contingency fund	600	600	500	...	...	...	...	500
Foreign fishing observer fund	...	...	...	350	...	...	...	350
Fishermen's guaranty fund	...	...	...	1,900	...	...	...	1,900
Coastal energy impact fund	70,469	...	...	...	...	...	...	...
Federal ship financing fund	...	...	...	...	...	...	...	...
(Guaranteed loan limitation)	...	(100,000)	...	...	...	...	...	...
Subtotal	892,176	800,286	814,702	6,927	-34,640	18,216	17,500	822,705

	Budget Request		Enacted by P.L. 96-536	Supplementals (P.L. 97-12)			Transfers	Budget Authority
	Base	Total		Program	Rescissions	Pay		
Patent and Trademark Office:								
Salaries and expenses	106,459	113,202	112,550	...	...	3,600	...	116,150
National Bureau of Standards:								
Scientific and technical research and services	100,437	124,336	113,100	...	-3,370	...	-703	109,027
National Telecommunications and Information Administration:								
Salaries and expenses	17,663	18,068	17,400	...	-163	...	...	17,237
Public telecommunications facilities, planning and construction	23,705	23,705	25,705	...	-6,000	...	...	19,705
Subtotal	41,368	41,773	43,105	...	-6,163	...	...	36,942
Maritime Administration:								
Ship construction	157,154	135,000	135,000	...	...	...	...	135,000
Operating-differential subsidies	343,026	347,697	333,196	...	...	...	...	333,196
Research and development	16,300	18,750	16,300	...	-2,500	...	...	13,800
Operations and training	64,377	65,627	65,550	...	...	450	16	66,016
Subtotal	580,857	567,074	550,046	...	-2,500	450	16	548,012
Total, Department of Commerce	3,859,596	3,412,183	2,775,366	31,127	-255,564	35,756	17,432	2,604,117

29#26
3/18/83

DEPARTMENT OF COMMERCE
1982 Appropriations History
(dollar amounts in thousands)

	Budget Request		Enacted by P.L. 97-92	Supplementals (P.L. 97-257)			Transfers	Budget Authority
	Base	Total		Program	Rescissions	Pay		
General Administration:								
Salaries and expenses........................	$35,022	$35,722	$31,578	...	...	...	-$3,346	$28,232
Bureau of the Census:								
Salaries and expenses........................	59,465	60,583	57,200	...	...	...	...	57,200
Periodic censuses and programs...............	152,801	95,733	87,898	...	...	...	...	87,898
Subtotal.....................................	212,266	156,316	145,098	...	...	...	...	145,098
Economic and Statistical Analysis:								
Salaries and expenses........................	25,560	25,560	28,771	...	...	...	...	28,771
Economic Development Administration:								
Salaries and expenses........................	39,700	18,000	25,000	...	...	...	...	25,000
Economic development assistance programs.....	282,300	32,000	198,500	...	...	...	...	198,500
(Direct loan limitation).....................	(61,515)	...	...	...	...	...	...	...
(Guaranteed loan limitation).................	(163,000)	...	...	...	...	...	...	...
Economic development revolving fund..........	...	...	...	...	...	...	...	...
(Direct loan limitation).....................	...	...	...	($30,000)	...	...	...	(30,000)
(Guaranteed loan limitation).................	...	...	...	(167,000)	...	...	...	(167,000)
Subtotal.....................................	322,000	50,000	223,500	...	...	...	...	223,500
Regional Development Program:								
Regional development programs................	22,838	...	...	...	...	...	...	...
International Trade Administration:								
Operations and administration................	120,401	182,636	151,700	...	...	...	295	151,995
(Direct loan limitation).....................	...	(31,430)	...	(12,484)	...	...	...	(12,484)
(Guaranteed loan limitation).................	...	(42,500)	...	(31,390)	...	...	...	(31,390)
Participation in U.S. Expositions............	...	...	...	10,000	...	...	...	10,000
Subtotal.....................................	120,401	182,636	151,700	10,000	...	...	295	161,995
Minority Business Development Agency:								
Minority business development................	59,291	57,413	56,641	...	...	...	...	56,641
United States Travel and Tourism Administration:								
Salaries and expenses........................	7,959	...	7,600	...	...	...	...	7,600

	Budget Request		Enacted by P.L. 97-92	Supplementals (P.L. 97-257)			Transfers	Budget Authority
	Base	Total		Program	Rescissions	Pay		
National Oceanic and Atmospheric Administration:								
Operations, research, and facilities	772,106	759,033	820,455	4,163 1/	...	21,294	10,046	855,958
Coastal zone management	51,816	8,415	7,415	...	...	...	...	7,415
Fishing vessel and gear damage compensation fund	3,250	3,500	3,500	...	...	...	...	3,500
Fishermen's contingency fund	500	900	900	...	...	...	...	900
Foreign fishing observer fund	350	1,000	4,000	1,000	...	...	...	5,000
Fishermen's guaranty fund	...	...	1,800	...	...	...	...	1,800
Coastal energy impact fund	...	500	...	...	...	...	...	...
Federal ship financing fund	...	...	...	...	...	...	...	...
(Guaranteed loan limitation)	...	(75,000)	...	...	...	...	...	...
Subtotal	828,022	773,348	838,070	5,163	...	21,294	10,046	874,573
Patent and Trademark Office:								
Salaries and expenses	117,214	118,961	118,961	2,500	...	3,874	...	125,335
National Bureau of Standards:								
Scientific and technical research and services	110,527	131,678	125,528	...	...	...	...	125,528
National Telecommunications and Information Administration:								
Salaries and expenses	16,467	16,467	16,483	...	...	...	...	16,483
Public telecommunications facilities, planning and construction	...	...	18,000	...	...	...	...	18,000
Subtotal	16,467	16,467	34,483	...	...	...	...	34,483
Maritime Administration:								
Ship construction	153,211	...	...	...	...	...	...	...
Operating-differential subsidies	334,854	417,148	...	...	...	...	...	...
Research and development	13,800	12,910	...	...	...	...	...	...
Operations and training	69,309	72,479	...	...	...	...	...	...
Subtotal	571,174	502,537	...	...	...	...	...	...
Total, Department of Commerce	2,448,741	2,050,638	1,761,930	17,663	...	25,168	6,995	1,811,756

1/ Includes $2 million appropriated by P.L. 97-216.

DEPARTMENT OF COMMERCE
1983 Appropriations History
(dollar amounts in thousands)

	Budget Request		Enacted by P.L. 97-377	Proposed Supplementals			Transfers	Budget Authority
	Base	Total		Program	Rescissions	Pay		
General Administration:								
Salaries and expenses	$31,613	$31,613	$31,613	...	...	$1,232	$425	$33,270
White House conference on productivity	...	...	1,500	...	...	...	...	1,500
Special foreign currency program	...	...	...	$500	...	...	...	500
Subtotal	31,613	31,613	33,113	500	...	1,232	425	35,270
Bureau of the Census:								
Salaries and expenses	62,275	64,125	66,319	...	...	2,685	233	69,237
Periodic censuses and programs	91,762	91,294	97,294	...	...	1,651	...	98,945
Subtotal	154,037	155,419	163,613	...	...	4,336	233	168,182
Economic and Statistical Analysis:								
Salaries and expenses	31,952	32,652	36,832	...	...	1,333	285	38,450
Economic Development Administration:								
Salaries and expenses	25,448	15,448	24,950	...	...	...	-1,348	23,602
Economic development assistance programs	198,500	...	168,500	...	-$158,500	...	...	10,000
(Direct loan limitation)	...	...	...	...	...	...	...	...
(Guaranteed loan limitation)	...	...	(150,000)	...	...	...	...	(150,000)
Economic development revolving fund	...	...	...	...	...	...	...	...
(Direct loan limitation)	...	...	...	...	...	...	...	...
(Guaranteed loan limitation)	...	...	(20,000)	...	...	...	...	(20,000)
Subtotal	223,948	15,448	193,450	...	-158,500	...	-1,348	33,602
International Trade Administration:								
Operations and administration	162,233	137,371	166,426	...	-20,100	...	1,707	148,033
(Direct loan limitation)	(20,000)	...	(12,484)	...	...	...	...	(12,484)
(Guaranteed loan limitation)	(42,500)	...	(31,390)	...	...	...	...	(31,390)
Minority Business Development Agency:								
Minority business development	59,487	50,000	48,000	...	...	446	-735	47,711
United States Travel and Tourism Administration:								
Salaries and expenses	8,015	5,033	8,100	...	...	...	89	8,189

	Budget Request		Enacted by P.L. 97-377	Proposed Supplementals			Transfers	Budget Authority
	Base	Total		Program	Rescissions	Pay		
National Oceanic and Atmospheric Administration:								
Operations, research, and facilities	878,553	732,670	863,682	20,000	...	2,000	21,972	907,654
Construction	...	...	...	...	-2,000	-2,000	...	-4,000
Coastal zone management	7,479	6,409	8,409	...	...	...	...	8,409
Fishing vessel and gear damage compensation fund	3,500	1,750	1,750	...	...	...	...	1,750
Fishermen's contingency fund	900	250	250	...	...	...	...	250
Foreign fishing observer fund	7,250	7,950	6,950	...	...	...	...	6,950
Fishermen's guaranty fund	1,800	600	1,800	...	...	...	...	1,800
Fisheries loan fund	...	...	10,000	...	...	...	...	10,000
Federal ship financing fund	...	...	3,100	...	...	...	...	3,100
(Guaranteed loan limitation)	...	(25,000)	...	...	...	...	...	...
Subtotal	899,482	749,629	895,941	20,000	-2,000	...	21,972	935,913
Patent and Trademark Office:								
Salaries and expenses	134,089	68,086	73,855	...	...	4,658	-54	78,459
National Bureau of Standards:								
Scientific and technical research and services	117,310	106,342	117,861	...	...	2,737	...	120,598
Technical information clearinghouse fund	...	5,000	...	...	...	...	...	...
Subtotal	117,310	111,342	117,861	...	...	2,737	...	120,598
National Telecommunications and Information Administration:								
Salaries and expenses	16,944	12,417	12,164	...	...	...	26	12,190
Public telecommunications facilities, planning and construction	18,000	...	15,000	...	...	...	...	15,000
Subtotal	34,944	12,417	27,164	...	...	...	26	27,190
Total, Department of Commerce	1,857,110	1,369,010	1,764,355	20,500	-180,600	14,742	22,600	1,641,597

DEPARTMENT OF COMMERCE
1984 Appropriations History
(dollar amounts in thousands)

	Budget Request		Enacted by P.L.	Supplementals			Transfers	Budget Authority
	Base	Total		Program	Rescissions	Pay		
General Administration:								
Salaries and expenses........................	$33,200	$33,200						
Special foreign currency program.............	500	700						
Subtotal................................	33,700	33,900						
Bureau of the Census:								
Salaries and expenses........................	69,423	78,200						
Periodic censuses and programs...............	99,581	78,000						
Subtotal................................	169,004	156,200						
Economic and Statistical Analysis:								
Salaries and expenses........................	38,219	38,900						
Technical information clearinghouse fund.....	...	5,000						
Subtotal................................	38,219	43,900						
Economic Development Administration:								
Salaries and expenses........................	27,175	18,100						
Economic development assistance programs.....	...	...						
(Direct loan limitation)....................	...	...						
(Guaranteed loan limitation)................	...	...						
Economic development revolving fund..........	...	...						
(Direct loan limitation)....................	...	...						
(Guaranteed loan limitation)................	...	...						
Subtotal................................	27,175	18,100						
International Trade Administration:								
Operations and administration................	142,593	144,900						
(Direct loan limitation)....................	...	...						
(Guaranteed loan limitation)................	...	...						
Minority Business Development Agency:								
Minority business development................	60,000	54,000						
United States Travel and Tourism Administration:								
Salaries and expenses........................	8,143	5,400						

	Budget Request		Enacted	Supplementals				Budget
	Base	Total	by P.L.	Program	Rescissions	Pay	Transfers	Authority
National Oceanic and Atmospheric Administration:								
Operations, research, and facilities.........	931,068	784,000						
Fishing vessel and gear damage compensation fund....................................	1,750	1,750						
Fishermen's contingency fund................	250	250						
Foreign fishing observer fund...............	6,950	12,000						
Fishermen's guaranty fund...................	1,800	1,800						
Fisheries loan fund.........................	10,000	...						
Federal ship financing fund.................	...	...						
(Guaranteed loan limitation)...............	...	...						
Subtotal.................................	951,818	799,800						
Patent and Trademark Office:								
Salaries and expenses.......................	81,872	82,500						
National Bureau of Standards:								
Scientific and technical research and services..................................	123,769	98,700						
National Telecommunications and Information Administration:								
Salaries and expenses.......................	13,617	12,200						
Public telecommunications facilities, planning and construction.................	15,000	...						
Subtotal.................................	28,617	12,200						
Total, Department of Commerce..................	1,664,910	1,449,600						

TRADE ADJUSTMENT ASSISTANCE PROGRAM

QUESTION:

The Office of Inspector General lists as one of its accomplishments, the investigation and tightening of loan requirements for Trade Adjustment Assistance. (GA-26). Please provide the Subcommittee with a summary of the audit of TAA.

ANSWER:

The Inspector General completed an extensive study of the problem-plagued Trade Adjustment Assistance program, previously administered by EDA and now under the International Trade Administration (ITA). The agency makes loans for productivity improvements or plant retooling to American firms adversely affected by imports. Of the $181 million in outstanding loans at the time of our review, $91 million ar in default or are in a delinquent status.

During our review, we learned that projections of sales and profits of grantees were accepted, although they were often grossly exaggerated. Borrowers were often in worse financial condition than stated in unaudited financial statements submitted with their loan applications. We also found that borrowers often used loan proceeds for purposes other than those intended in the loan agreements. This resulted in grantees not having the plant, equipment or working capital to operate efficiently. We learned that the problems connected with guaranteed loans often go undetected because of inadequate loan servicing by the banks. We also found that the collateral offered was neither appraised nor verified. This resulted in heavy losses.

We made a number of recommendations to the International Trade Administration which now has oversight responsibility for this program and in our followup review, we are happy to report that ITA has incorporated essentially all of our recommendations into its procedures for loan processing and administration that apply to the Trade Adjustment Assistance program.

We are pleased to report that ITA's loan requirements have been tightened considerably. From August 1981 to February 1982, ITA rejected adjustment plans or applications for loan adjustment assistance of more than $25.4 million. Of this, $21.5 million was for loan guarantees and $3.9 million was for direct loans. The requests were rejected because: (1) potential borrowers could not provide reasonable assurance that the loans would be repaid; (2) financial statements were exaggerated; (3) insufficient equity capital; (4) inadequate collateral; and (5) unclear goals.

The reasons for the loan rejections were identical to the causes for the serious loan defaults the IG had earlier outlined. In the past, defaults have accounted for two-thirds of the high-risk loans made. Of those in default, about 50 percent were liquidated and only 25 cents on the dollar were recovered. Based on these statistics, we have computed a cost avoidance of $5.8 million for rejected loan applications of $25.4 million.

TAA LOANS DELINQUENCY AND DEFAULT RATE LOANS

QUESTION:

For the record, please provide the committee with the default and delinquency rates for Trade Adjustment Assistance loans.

ANSWER:

TAA loans made prior to 1982 are administered by the Economic Development Administration. Based upon the attached table, the default and delinquency rate for Trade Act loans is 60 percent. Below is a summary of TAA direct loans. The "delinquent", "liquidation", and "servicing management" columns total 60%.

TAA Direct Loans
(with outstanding balances)
(dollars in thousands)

Year	Current		Delinquent		Liquidation		Servicing Management		Active Total	
Made	No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount
1972	---	---	---	---	---	---	1	$600	1	$600
1973	1	$180	---	---	---	---	1	7,408	2	7,588
1974	1	511	---	---	---	---	---	---	1	511
1975	1	2,188	---	---	---	---	---	---	1	2,188
1976	4	1,534	1	$750	---	---	1	178	6	2,462
1977	1	356	3	1,189	3	$1,088	---	---	7	2,633
1978	8	3,116	7	1,718	13	3,144	3	866	31	8,844
1979	22	12,730	6	2,735	16	10,233	11	4,419	55	30,117
1980	17	9,207	8	4,757	20	12,249	6	3,806	51	30,019
1981	23	8,547	8	2,579	9	2,976	4	1,940	44	16,042
1982	7	2,527	---	---	---	---	---	---	7	2,527
Total	86	40,895	33	13,728	61	29,690	27	19,217	206	103,531
% of Total	42%	40%	15%	13%	30%	29%	13%	18%	100%	100%

- These figures represent only loans still in effect - i.e. do not include loans that were paid off or written off.

- Written off: 112 direct loans at a cost of $60.8 million.

- Paid off: 5 direct loans at a value of $3.1 million.

BUREAU OF THE CENSUS

Standard Level User Charges

QUESTION:

Please identify the SLUC increase for headquarters and field offices of the Census Bureau, using the final year 1983 figure as enacted in the Continuing Resolution.

ANSWER:

The Standard Level User Charges (SLUC) increase of $957,000 over the FY 1983 Continuing Resolution represents $247,000 for headquarters and $710,000 for field offices.

Survey of Income and Program Participation

QUESTION:

Will the household sample size of 40,000 be sufficient to accurately measure the effects of program changes for the various transfer payment programs?

ANSWER:

The sample size of 40,000 will be sufficient to measure the effect of program changes for the larger transfer programs (Social Security, Supplemental Security Income, Aid to Families with Dependent Children, food stamps, unemployment compensation, veterans' payments, etc.). The ability of the Survey of Income and Program Participation (SIPP) to measure these changes is, of course, dependent somewhat on the magnitude of the change. Measuring the effect of changes on very specific subgroups of the population (by race, ethnicity) may be more difficult.

QUESTION:

Could you explain the degree of accuracy expected for SIPP at the national, state, and county levels for the various programs and population groups?

ANSWER:

The 40,000 household sample will not provide reliable state or county estimates; however, the survey design permits the addition of sample households in specific states in order to provide representative and reliable state data. The cost of this "state supplementation" would be quite high and would vary depending on the original sample size and distribution of the sample within the state. Combining survey and administrative data in simulation models may be a useful and cost-effective method for developing some of the information needed at the state level.

QUESTION:

How will nonmoney income be translated into cash equivalents?

ANSWER:

Nonmoney data are translated into cash values using both survey and administrative data. The market value of the benefit has been derived using administrative data on the total number of recipients and amount of money spent in programs. Cash equivalent values are generated by examining expenditure patterns of persons not receiving benefits who are otherwise similar to program recipients.

QUESTION:

Will the Bureau as part of SIPP add the nonmoney income to cash income to determine the total household income and the number of households above and below the poverty index?

ANSWER:

More research needs to be done to develop acceptable methods for combining cash and noncash benefits. Given the growth of noncash benefits in the United States, they must be incorporated into income and poverty data if these statistics are to be accurate measures of economic well-being.

QUESTION:

When SIPP becomes fully operational will the Census Bureau suspend or alter its monthly Current Population Survey which already collects information on household income (March supplement) and labor force status and other demographic characteristics at an annual price tag of about $18 million?

ANSWER:

No. The primary purposes of the Current Population Survey (CPS) are to provide the official monthly estimates of the national employment and unemployment. The Bureau of Labor Statistics (BLS) also must provide estimates of these characteristics for individual states with sufficient reliability for use in the distribution of Federal funds under programs such as the Employment and Training Administration (ETA). Even when it is in full operation, SIPP will not have a sample large enough to provide estimates of unemployment with the degree of accuracy required by BLS.

From the Bureau's perspective, it is possible that, once SIPP becomes established, the income portion of the March CPS supplement could be reduced or eliminated. The BLS, however, is a cosponsor of this supplement and heavily utilizes the annual work experience data which are a part of the March supplement, often cross-tabulating those data by income. The extent to which the BLS would require the continued collection of income data in the CPS or, alternatively, could use the combined income/work experience data from SIPP would have to be explored with that agency.

The Census Bureau has viewed SIPP as complementary to the March CPS, not a replacement. Because of its large sample size, the CPS can provide data for some of the larger states and for subgroups of the population. The breadth of data collected by SIPP will allow one to more fully describe the cross-sectional snapshot provided by CPS and to learn more about the dynamics of income changes brought on by changes in employment status, family dissolution and formation. These changes can be measured only through a longitudinal survey approach.

QUESTION:

Will other Federal agencies, particularly the Department of Health and Human Services, reimburse the Bureau for the use of the survey?

ANSWER:

No, not for the basic survey. The SIPP budget is based upon conducting 30-minute interviews in the 40,000 sample households once every 4 months. The interview includes time for collecting the core items on income and labor force participation and time for supplemental questions. The budget also covers the cost of preparing public use data files, which will be made available to any user for the cost of reproduction. Should another agency wish to expand the sample to include a special subgroup of the population or to expand the questionnaire beyond the planned content, that agency would bear the additional costs.

Agencies may also wish to have special compilations or tabulations of data that cannot readily be made from public use data tapes. Any such efforts would be done on a reimbursable basis.

An interagency committee has been established by OMB to provide a forum for discussing the scope and direction of the SIPP in relation to the agencies' needs. It will recommend the content to be included in the supplemental questions. No special arrangements have been made with HHS regarding the survey funding.

International Data Base

QUESTION:

The Department is requesting an increase of five positions and $100,000 for an international data base program.

Will data and information made available for the private sector be subject to a fee?

ANSWER:

If on-line access is provided to the private sector, then users would reimburse the Census Bureau for at least the hourly rate for computer usage. In addition, the International Data Base (IDB) would provide output in the form of computer tapes which would be sold by the Bureau's Data Users Services Division. Limited data would be provided to the public sector (on an ad hoc basis) free of charge. Published reports containing data from the IDB would be available through the Government Printing Office.

QUESTION:

What will be the annualized level of the programs?

ANSWER:

$100,000 in 1984 with contributions of $1 - $1.2 million from other Federal agencies.

Travel Survey

QUESTION:

For fiscal year 1983, the Congress provided $1 million for the Census Bureau to conduct a national travel survey.

How will the Bureau use the $1 million in 1983, and will this involve coordination with a similar effort at the U.S. Travel and Tourism Administration?

ANSWER:

Because the leading financial supporter (Department of Transportation - DOT) of the National Travel Survey (NTS) has withdrawn its $1 million of support, we propose to not conduct the NTS but rather to request a reprogramming of these funds during the month of May for necessary improvements in the Commodity Transportation Survey (CTS).

The CTS is an especially important part of the Census of Transportation because it is the only statistical program measuring the distribution characteristics of shipments by all modes of transportation. An evaluation of the 1977 CTS found several major methodological problems in the way the CTS was conducted. In particular, the study found this survey to be very burdensome on those firms selected, and that the survey's small sample size could not support the level of detail needed for publication. As a result of these findings, we have developed a new data collection methodology that will produce more reliable estimates and will be less burdensome on individual respondents. The cost of these improvements, however, exceeds the allocated funds for the CTS, so we will propose use of NTS funds for this survey. In addition, we are now seeking contributions from interested data users both in government and the private sector.

The NTS, which is part of our Census of Transportation, requires funding from other governmental agencies in order to produce the state and regional detail that is the heart of this program. When DOT withdrew their financial support, we determined that the only information that could be produced would be national totals. The NTS data users believed that without the state detail this survey would be of very limited use. Therefore, we could not justify this expenditure. The NTS was cancelled, and the Department's portion of the funding was removed as part of the Administration's budget reductions. The funding restored by the continuing resolution is not sufficient to conduct the NTS, so work on this survey was not started.

The U.S. Travel and Tourism Administration conducts two small survey involving foreign travel. We have examined these surveys and determined that they neither conflict with nor overlap the NTS design.

QUESTION:

Shouldn't the $1 million be deducted from the Bureau's request for funds for fiscal year 1984?

ANSWER:

No, for the Department will seek to reprogram this money in FY 1983 to conduct the Commodity Transportation Survey. Funds are not requested for this effort in the FY 1984 request and, therefore, it should not be deducted.

Census of Agriculture

QUESTION:

The Census of Agriculture was recently completed. Considering that a census of population and housing is taken every ten years, on what basis is there a need for an agricultural census every five years?

ANSWER:

The rapid and significant changes in the Nation's agriculture economy caused by changes in production, interest rates, markets, fuel supplies, and prices of farm inputs require frequent data on agricultural activity. The importance of food production to the Nation's economy and agriculture's importance in international trade, support the need for 5-year census data. If the census of agriculture were conducted less frequently, timely benchmark data would not be available to adjust trends for many of the year-to-year estimates and projections made by the Department of Agriculture (USDA), BLS, Commerce, and others.

Intercensal Demographic Estimates

QUESTION:

In the Continuing Resolution, $2 million was provided to the Census Bureau of local, state, and regional population estimates.

What projects will be financed by the $2 million during the current fiscal year?

ANSWER:

The $2 million for local, state, and regional population estimates would constitute a one-time expenditure on research and development to improve the procedures used in the Bureau's estimate programs. In response to demands from Congress and other government agencies, the Bureau developed plans in 1981 for several research projects that would develop methods and permit additional characteristics to be added to the current estimates programs. These projects include development of methods to produce expanded estimates of population characteristics, households, and household income distributions; population estimates for American Indian Reservations; improved geocoding for administrative records, improved national population accounts (including better estimates of legal and illegal immigration); and the development of a county-level data base for the Nation.

QUESTION:

Were these projects planned prior to the receipt of the additional funding?

ANSWER:

These projects were included as enhancements to the FY 1982 budget, but the appropriation did not include the necessary funding.

QUESTION:

Since no funding is requested in the FY 1984 budget, would it not be appropriate to reduce the fiscal year 1984 budget request by $2 million?

ANSWER:

No. The additional $2,000,000 in FY 1983 supports FY 1983 research and development projects to enhance the current estimates. The FY 1984 request does not contain a continuing level of $2 million for these projects. Therefore, that amount should not be deducted from the FY 1984 request.

Decennial Census

QUESTION:

What is the Bureau's current estimate of the net undercount in the 1980 census?

ANSWER:

We do not have an estimate that we believe is reasonable. The methods we use contain serious flaws in the underlying data. For example, one undercount estimate is close to zero but fails to include any estimate for illegal aliens. Our job now is trying to develop ways of dealing with the data deficiencies (e.g., how to estimate the number of illegal aliens) that will lead to reasonable estimates.

QUESTION:

What is the estimated undercount rate for blacks, whites, and Hispanics?

ANSWER:

We do not have estimates that we believe are reasonable, except for the Black population (4.8 percent). We are trying to develop ways of dealing with the data deficiencies that will lead to reasonable estimates.

QUESTION:

Did the Census Bureau's coverage improvement programs lead in some cases to overcounts?

ANSWER:

We have no evidence at this time that the coverage improvement programs led to a net overcount.

Geographic Support

QUESTION:

Regarding geographic support for the 1990 Decennial Census, how will the Bureau enter the data into the computer file?

ANSWER:

The basic geographic data will be entered into the automated file through a process called digitizing (a process of recording map images in the computer). Current plans call for this work to be done by Bureau staff; however, the Bureau may be able to obtain some portion of the basic geographic data from the U.S. Geological Survey, as part of automated mapping programs they have in process. The Bureau has established an interagency task force with the U.S. Geological Survey to determine the potential for information interchange and to ensure that there is no duplication of effort.

QUESTION:

Does the Bureau expect to incorporate information on all geographic areas in its computer file prior to the 1990 census?

ANSWER:

Yes. The budget proposal submitted for fiscal year 1984 and the projected requirements through fiscal year 1987 are based on developing an automated geographic support file for the entire United States in time for use in the 1990 census. This file will contain basic geographic data on all areas to be recognized in the tabulations of the 1990 census.

QUESTION:

Is there sufficient equipment on hand to do this in time for the 1990 census? If not, how much additional equipment does the Bureau need to acquire? Has it developed an acquisition strategy for this equipment?

ANSWER:

The Bureau has the mainframe computer power to develop the automated files but must purchase digitizing stations and related computer interfaces to develop and use the file. The Bureau is planning the procurement of digitizing stations for fiscal year 1984. In order to produce maps and other geographic products from the files, and use the files during the operational phases of the 1990 census, computer-driven plotters and related hardware will be procured during fiscal years 1986 through 1989. The funding for these procurement actions is not part of the Geographic Support request; all computer hardware funding is consolidated under the Data Processing Systems request.

QUESTION:

What will be the source data for the file for the smaller places, those places not incorporated and with less than 2,500 inhabitants?

ANSWER:

Staff in the Bureau's regional offices are working with county, city, and other local officials to collect basic geographic source data. Boundaries for small towns and cities are collected directly from local officials through the Boundary and Annexation Survey; all places, regardless of size will be contacted directly during the latter part of the decade. Statistical area boundaries are determined in conjunction with local officials, as well.

QUESTION:

Will the Bureau have the capability of displaying the contents of the computerized file in the form of readable maps in sufficient numbers to provide for the needs of the 1990 census?

ANSWER:

Yes. Our plans include providing maps, on paper, to field staff, local officials and other data users as required to support the needs of the 1990 census. The production of these maps requires the use of computer-driven plotters.

QUESTION:

How much does the Bureau anticipate spending on geographic support in fiscal years 1985 through 1987?

ANSWER:

Fiscal year 1985 -	$18,686,000
Fiscal year 1986 -	$18,843,000
Fiscal year 1987 -	$16,224,000

These funds will provide for collection of basic geographic source data and development of the automated file; they do not include funds to procure and maintain data processing equipment or to produce geographic products required specifically for the 1990 census. Funding for those specific activities are included in the Data Processing Systems and 1990 Decennial Census portions of the budget.

Data Processing Systems

QUESTION:

Has the Bureau dropped the A-109 acquisition procedures, and if so, why? How much was spent in the A-109 acquisition effort over the past several years?

ANSWER:

Yes, the Census Bureau has discontinued the use of A-109 procedures in the acquisition of its data processing systems. We are concerned about the complexity, high cost and long lead time involved in designing, demonstrating and implementing a complete system from start to finish. Some components of the present system operate effectively and thus need not be considered for immediate replacement. Our approach will focus resources on those areas which offer the most immediate payoff.

The estimated total investment in the A-109 process is about $2.75 million for FY 1981 through FY 1983. This amount would have been spent even if we were using conventional procurement methods. The high costs associated with A-109 process would have been incurred for design, development, and demonstration of alternative systems. When

A-109 procedures were dropped, we had not yet reached that phase in the process.

QUESTION:

Will the Bureau obtain an integrated ADP system using the traditional procurement method?

ANSWER:

Yes. The definition of needs outlined in our Mission Need Statement and the long-range planning system, both developed under the A-109 approach and oriented to an integrated ADP system, are being used in conjunction with traditional procurement methods pending a decision on continuation of the A-109 process.

QUESTION:

Will the Bureau experience a savings by abandoning the A-109 procedures?

ANSWER:

Yes, we think that we could avoid certain costs by not having to fund the design, development and demonstration of prototype systems.

QUESTION:

Does the Bureau still anticipate replacing its computer facilities?

ANSWER:

Yes, we plan to do this in the 1983 - 1988 timeframe. We are tentatively planning to replace the first mainframe computer in 1987/1988.

Justifications by Object Class

QUESTION:

Please explain the large increase in the estimated cost for "Other nongovernmental contracts" for the Periodic Censuses and Programs appropriation (CEN-108). The 1984 base amount is $948,000 and the 1984 estimate is $8.3 million.

ANSWER:

The non-governmental contracts include lease-to-purchase payments for the bridge computer, additional costs for maintenance of equipment, acquisition of software packages, and technical support services.

QUESTION:

Please explain the large increase in the 1984 estimate for ADP equipment for the Periodic Censuses and Programs appropriation (CEN-109). The 1984 base amount is $450,000 and the 1984 estimate is $4.1 million.

ANSWER:

The 1984 request is for digitizing terminals for the automated geographic system.

QUESTION:

Telephone, telegraph and teletype services are scheduled to rise from the 1984 base of $83,000 to $288,000. Please explain.

ANSWER:

The increase in these costs is associated with SIPP. The costs are for a data transmission link between headquarters (Suitland) and the data preparation division (Jeffersonville, Indiana) and communications between headquarters and the twelve regional offices.

Taxable Property Values

QUESTION:

The taxable property values census is proposed for elimination in 1984 (CEN-76). Describe the uses of this census, and its frequency.

ANSWER:

The Taxable Property Values (TPV) Survey is not proposed for elimination in 1984. The reduction in 1984 is a part of the regular cycle for this survey. The survey produces uniform data on the composition of the Nation's property tax rolls. The survey findings are used extensively by the Advisory Commission on Intergovernmental Relations in developing the tax base data needed for use in Representative Tax System (RTS). The RTS provides a methodology for measuring the fiscal capacity of state and local governments. Use of this system in distributing Federal aid has been proposed by various members of Congress.

The Bureau of Economic Analysis, Federal Reserve Board, Congressional Budget Office, and Treasury Department use data from the TPV survey for analyzing tax burden and other aspects of public finance.

State and local legislators and officials charged with equalization responsibilities use the data in establishing policies related to property tax administration, school finance, and other matters of public economics.

Business organizations, public interest groups. and individual citizens use the data on assessment/sales ratios to evaluate the relative uniformity and fairness of property assessments in jurisdictions in which they reside.

The TPV survey in conducted every 5 years in the years ending in "2" and "7".

Census Personnel

QUESTION:

A number of the census programs show absolute decreases in funding and temporary personnel, but increases in permanent personnel. What are the implications of such a trend for years beyond fiscal year 1984? How is this related in each case to the data collection--data evaluation cycle?

ANSWER:

Each of the censuses has a total core staff of permanent positions that remains relatively stable throughout the cycle. Within each census, the permanent positions shift between line items during the cycle. The basic core of permanent positions is supplemented with temporary positions as the workload increases during the cycle. For example, the permanent staff plans the census, temporary positions are added to collect and process the data, then the temporary positions decline during the evaluation and publication phase.

ECONOMIC AND STATISTICAL ANALYSIS

STATISTICS OF INCOME TRANSFER

QUESTION:

$500,000 is proposed for transfer from the IRS to ESA for "Taxpayer Service and Return Processing." (ESA-10) What is the purpose of the transfer if the funds are subsequently used to reimburse the IRS for the compilation of data they prepare for their own cases already?

ANSWER:

The transfer of funds to which you refer are funds used by the IRS Statistics Division to prepare statistical tabulations of the information on proprietorship and partnership income tax returns. The purpose of the transfer is as follows. The primary user of this information within Treasury is the Office of Tax Analysis. That office determined that it needed tabulations of proprietorship and partnership returns once every five years instead of every year. BEA was informed that if the Bureau wanted annual tabulations it would have to pay four-fifths of the total cost. BEA's share would be $700,000 per year. Instead of seeking new funding in BEA's budget of that amount, OMB directed that $500,000 be transferred from IRS and that BEA provide $200,000.

SLUC INCREASE

QUESTION:

What justification has GSA provided for an increase of $1.8 million in the Standard Level User Charge (SLUC)? (ESA-11)

ANSWER:

The increase is only $231,000. This represents a 13 percent increase over the FY 1983 base of $1,823,000. The estimate is one supplied by the Department's Office of Property and Building Management based on a Fair Annual Rental appraisal conducted by GSA. The increase was standard Department-wide.

COMPILATIONS FOR INTERNATIONAL ORGANIZATIONS

QUESTION:

Special compilations for international organizations are made of national income and product and wealth accounts. Is Commerce reimbursed for the work involved? How much is expended for this purpose? Are similar courtesies given to the United States by the international organizations? (ESA-16)

ANSWER:

Commerce is not reimbursed for the work involved in reporting to international agencies such as the United Nations, Organization for Economic Cooperation and Development, and International Monetary Fund. About $175,000 per year is expended by BEA in such work. These reports are provided as part of the United States obligations as a member of these international organizations. Further information can be provided by the Department of State. These reports also serve to keep the U.S. statistical agencies abreast of advances in important areas of research that are the result of work done by the international organizations and by other countries reporting to them.

AUTOMOTIVE PROGRAM

QUESTION:

If the Automotive Policy Support program is due to be terminated in FY 1985, where will coordination for this policy occur?

ANSWER:

The Office of Automotive Industry Affairs was created within the Department of Commerce by Presidential request in early 1981 to provide overall Federal leadership in the development and implementation of Government policy for the auto industry. This now includes the annual assessment of the domestic auto industry required by the Chrysler Loan Guarantee Act. The status of the auto industry in 1985 is as yet unknown. The continuing purpose of the Automotive Policy Program subsequently rests on that condition. Beginning in FY 1985, any remaining automotive policy issues will be coordinated by the Office of Economic Policy. The annual report to Congress on the auto industry will be prepared by the Bureau of Industrial Economics. Both will be undertaken within existing resources.

ECONOMIC FORECASTING INCREASE

QUESTION:

The Department proposes an increase of $625,000 and seven positions for policy-oriented, economic forecasting capability. (ESA-30) Doesn't this capability already exist in other portions of the Government, in the private sector, and in academia?

ANSWER:

The Department has requested this increase for improved forecasting only after a careful consideration of alternative forecasting services available in Government and the private sector.

After a review of Government and private forecasting services, the Office of Economic Affairs concluded that they would be unsuitable because they do not reflect adequately 1) financial market developments and their influence on macroeconomic performance; 2) the effect of changes in supply of labor and capital on aggregate economic performance; or 3) the interaction of specific industrial sectors in estimating overall macro activity.

The forecasts that will be produced by the Office of Economic Affairs will be used by the Secretary in economic policy deliberations within the Administration. These forecasts often must be produced with little lead time, must reflect the most recent economic data available and must present as accurate a set of interrelationships among economic variables as possible. The Office of Economic Affairs expects to draw as much as possible on suitable data and sub-sector models that are available from other Government agencies and from commercial services. These forecasts will be distinguished by being time sensitive, policy-oriented, sensitive to the financial market, sensitive to supply developments, and industrially oriented.

COMPETITIVE ASSESSMENT PROGRAM

QUESTION:

An additional 16 positions and $943,000 are proposed for the competitive assessment program (ESA-34). Can this large increase in personnel and funds be efficiently utilized in one fiscal year?

ANSWER:

The increase proposed for Competitive Assessment is well planned and well balanced so as to ensure that the funds will be efficiently utilized. In addition to the 16 positions, this increase provides for greater access to commercial business and technical data bases, for greater access to industrial expertise, and for extramural research on issues which cut across a number of industry sectors. During this present fiscal year, the Competitive Assessment Program is carrying out a number of preliminary assessments -- in addition to its full-scale assessments -- in which industry sectors are operationally defined, background data and information are collected, and judgments are made about the feasibility and priority of future full-scale efforts. When the proposed increase takes effect next year, a backlog of waiting work will be ready. We also are taking steps this year to ensure that the management and organization of the Program is ready to utilize efficiently these additional resources.

PATENT LICENSING PROGRAM

QUESTION:

An increase of $365,000 and 4 additional permanent positions are requested for a patent licensing program. On page ESA-37, it is stated, "Projected royalties for FY 1982-1988 are expected to increase from $150,000 to $1,500,000 during that period."

a. Given that relatively small expected return on the Commerce Department's investment, does it make sense to establish the program?

ANSWER

The increase would not establish a new program but would provide additional resources for a key existing program, indicated on pages ESA-2, 4, and 6.

Decades of low utilization of Government inventions prompted Congress in 1980 to provide statutory authority to grant exclusive Patent licenses (P.L. 96-517). Now, the incentives of exclusive licensing coupled with this Program's extensive industry contacts developed since 1977 have resulted in growing industry interest in the hundreds of inventions developed each year in Government laboratories. The requested increase would enable the program to handle a significant backlog of industry licensing interest and negotiations.

To date, 100 royalty bearing licenses have been granted.

The most recent projection for royalties for 1982 through 1988 is $6.86 million, offsetting program costs of $5.830 million by a million dollars. Larger returns will result in future years, as long commercial development and regulatory-approval leadtimes are completed for inventions already licensed. More importantly, licensees will make millions of dollars of R&D and plant investment, creating thousands of jobs and producing considerable tax revenue.

QUESTION:

b. Couldn't such a program be run more efficiently by the Patent and Trademark Office?

ANSWER:

Active technology transfer and commercial evaluation of intellectual property are not functions of the Patent and Trademark Office (commercial value is not a criterion for patentability). More importantly, the PTO's quasi-judicial role of administering U.S. patent laws would be in direct conflict with any interest in promoting the licensing and use of inventions for which it would otherwise grant or deny patents.

QUESTION:

c. $222,000 is requested for "other services." What are they?

ANSWER:

The increase for Other Services is primarily for foreign patent filing, prosecution, and maintenance. These important program activities involve the protection of U.S. Government technology from unrestricted, uncompensated use by the foreign competitors of U.S. industry. Foreign patenting encourages U.S. companies to develop overseas markets, reducing balance of trade and payment deficits.

With present resources, the Licensing Program files foreign patents on approximately 3 percent of client agency inventions. While foreign patent filing is necessarily highly selective, potentially significant inventions are not being foreign filed. The increase would permit additional filing of selected inventions and promotions for licensing.

Further, half of the licenses issued by the program include foreign patent coverage. Each time foreign patent rights are licensed, the Government is contractually bound to prosecute pending foreign patent applications and maintain licensed issued patents. Licensees reimburse the Government for these expenses in the form of royalties. Because royalties are returned to Treasury, licensing success necessitates greater appropriation subsidy.

QUESTION:

d. What will be the annualized cost of the program?

ANSWER:

The average annual cost of the Patent Licensing Program FY 1982 through 1988 will be $830 thousand.

INDUSTRIAL TECHNOLOGY PARTNERSHIP PROGRAM

QUESTION:

Has the Commerce Department been working with the Treasury Department in the development of the Industrial Technology Partnership (ITP) program? Has the Treasury Department indicated in writing that it supports the establishment of limited partnerships for such purposes? Have they expressed any ambiguity to the Commerce Department as to the legality of such arrangements? Please cite the applicable sections of the Internal Revenue Code and IRS regulations which govern such limited partnerships, and indicate whether the IRS believes industrial technology partnerships are in compliance.

ANSWER:

The Department of Commerce informed the Treasury Department of the ITP program and encouraged its advice and counsel. The ITP program did not create the concept of R&D limited partnerships (RDLP's). Such limited partnerships have existed for many years independent of the Commerce ITP program. When properly structured, no objections are raised as to the legality of such partnerships. Treasury has not indicated in writing to Commerce that it supports or opposes the establishment of R&D limited partnership RDLP's (nor would it be necessarily appropriate for Treasury to so indicate). Similarly, Treasury has raised no objections to the legality of RDLP's as envisioned by the ITP program.

The tax benefits offered by partnership financing rest on three cornerstones: (1) Section 174 which permits an electing taxpayer currently to deduct qualifying research expenditures rather than capitalizing those expenditures, (2) the Supreme Court case of Snow v Commissioner, 416 U.S. 500 (1974), which allowed a limited partner to offset his other income with partnership 174 expenditures and broadened the reach of 174 to include businesses that had not yet offered any product for sale, and (3) Section 1235 which provides long-term capital gains treatment for the sale of all rights to a patent or patentable product. Also pertinent for long-term capital gain treatment are Sections 1221-1223 and 1231 of the Code. The pertinent regulations include those which relate to the above code sections, e.g., Regs. 1.174, 1.1235 etc.

The IRS has been supplied with draft material describing the use of the limited partnership vehicle in the ITP program and has raised no objections as to compliance with either the Internal Revenue Code or IRS regulations.

FOREIGN TECHNOLOGY ACQUISITION PROGRAM

QUESTION:

The foreign technology acquisition program is being transferred to the National Technical Information Service to be funded by sales revenues generated in the Information Clearinghouse Program. Will foreign acquisition efforts continue at a reduced, equal, or increased scale in FY 1984 and beyond?

ANSWER:

Since its inception, the Foreign Technology Acquisition Program has been an integral part of the National Technical Information Service and will continue to be in FY 1984 and beyond. The program has been funded previously by the Appropriation. However, in FY 1984 and beyond, revenue generated by the sale of foreign-acquired documents will offset program costs. Efforts in the program will continue at approximately the same level in FY 1984 as they were in FY 1983. Thereafter, the level of activity will be proportional to the revenue generated via foreign document sales.

TECHNICAL INFORMATION CLEARINGHOUSE FUND

QUESTION:

A proposal has been made to capitalize the Technical Information Clearinghouse Fund, assuming it is authorized. Please describe in detail the need for the fund.

ANSWER:

NTIS presently uses a trust fund account to finance its operations. A trust fund has not proven to be adequate because it does not provide working capital to finance operations during low cash-flow periods and it does not permit net earnings to be retained to develop such capital or to purchase capital assets.

NTIS experiences broad fluctuations in cash-flow, and no reservoir of working capital exists to finance operations during times of low cash inflow. As a result, NTIS must draw upon funds advanced by customers (deposit accounts) to help finance operations during these low cash-flow periods. The Department of Commerce, the Office of Management and Budget (OMB), and the General Accounting Office (GAO) all agree that this practice is undesirable and should be eliminated through the establishment of a revolving fund. The draft bill would authorize a one-time appropriation of $5,000,000 to provide a corpus for the fund. This corpus can be thought of as a line of credit. During low cash-flow periods, NTIS would draw upon the capital to finance operations. During high cash-flow periods this capital would be replenished. The establishment of a revolving fund also will allow NTIS to modernize financial practices, match costs with revenues, allow for more accurate representation of NTIS' overall financial status, and generally improve management control over operations.

In addition, notwithstanding the intent of Section 3 of NTIS' enabling legislation to recover the costs of producing NTIS' products and services from users, the current trust fund does not provide authority to purchase capital assets. Therefore, although Congress intended to have NTIS pay for itself, appropriations would have to be requested for large capital acquisitions unless this revolving fund is approved.

QUESTION:

What are the anticipated expenditures from the fund?

ANSWER:

(in $000)

	FY 1984	FY 1985	FY 1986	FY 1987	FY 1988
Funded-Non Capitalized	$25,200	$27,000	$28,500	$30,000	$31,500
Funded-Capitalized	3,800	3,800	3,500	4,000	4,500
Subtotal	$29,000	$30,800	$32,000	$34,000	$36,000
Unfunded Liabilities 1/	7,600	-	-	-	-
Total	$36,600	$30,800	$32,000	$34,000	$36,000

1/ The unfunded liabilities represent advances for customer deposit accounts and subscription services and are valid liabilities to NTIS. These liabilities, however, are not anticipated expenditures in FY 1984.

QUESTION:

What is the expected annualized activity of the information clearinghouse function?

ANSWER:

(in $000)

	FY 1984	FY 1985	FY 1986	FY 1987	FY 988
Current Year Revenues	$29,000	$31,000	$33,000	$35,000	$37,000
Unobligated Balance Fwd.	3,687	1,087	1,287	2,287	3,287
Appropriation (1-time)	5,000	-	-	-	-
	$37,687	$32,087	$34,287	$37,287	$40,287

QUESTION:

What are the projected balances over the next five fiscal years?

ANSWER:

(in $000)

FY 1984	FY 1985	FY 1986	FY 1987	FY 1988
$1,087	$1,287	$2,287	$3,287	$4,287

ECONOMIC DEVELOPMENT ADMINISTRATION

Salaries and Expenses

QUESTION:

The Department proposes that $18,100,000 be spent in the salaries and expenses account in fiscal year 1984, supporting 246 permanent positions. Is this level adequate for maintaining management support for the additional grants that will be awarded due to the disapproval of the EDA deferral?

ANSWER:

We are reviewing our requirements. Because the deferral has been denied by the House (March 10, 1983), we will not move forward with the RIF which had been planned for August 1983. This will impact on both staffing and funding levels for FY 1984. We expect to complete our review by April 22 and will identify any revisions to our FY 1984 requirements.

QUESTION:

Indicate the total in salaries and expenses necessary in FY 1984 to support a program level equal to FY 1983 enacted.

ANSWER:

At current rates we would require approximately $27.2 million.

Apportionment for Public Works Grants

QUESTION:

Indicate the apportionment requested of OMB by the Department for public works grants for the first quarter of fiscal year 1983. Indicate the number of applications authorized, approved, and obligated in the first quarter of the fiscal year 1983, indicating the funding totals in each case.

ANSWER:

EDA received its apportionment under the first Continuing Resolution on October 29; $28,822,000 was included for public works. On November 23, EDA published its notice of the availability of funds in the Federal Register. By December 17, EDA authorized over $30 million for 52 public works grant applications; no projects had been approved or obligated by that date. At a November meeting of EDA staff with Senate Appropriations Committee staff, EDA stated that it would be virtually impossible to approve or obligate projects by December 17, 1982. However, it was stated that EDA would authorize the public works and planning funds by that date. This approach was agreed to by the Congressional staff.

University Centers

QUESTION:

Of the $8 million in technical assistance grants appropriated for fiscal year 1983, $3 million is targeted for university centers. How and where are these funds to be expended?

ANSWER:

Final decisions have not been made. The following is a listing of all the University Centers funded in FY 1982 and which will be considered for funding by the $3.0 million available in FY 1983.

Included in the listing is a statement describing the purposes for each of the programs.

FY 1983 University Center Grants

Name	Purpose
Urban Economic Development Center Coppin State College Baltimore, Maryland	To provide a wide range of technical services to small businesses in Baltimore in support of the City's economic development program.
New Enterprise Institute Center of Research and Advanced Study University of Southern Maine Portland, Maine	To carry out a statewide program of business assistance with emphasis on new ventures.

Name	Purpose
University Center for Economic Development University of Massachusetts Amherst, Massachusetts	To assist business and community economic development in Western Massachusetts through an inter-disciplinary program of technical assistance.
Center for Industrial and Institutional Development University of New Hampshire Durham, New Hampshire	To provide training and counseling to small businesses and technical assistance to communities seeking to encourage economic development.
Pennsylvania Technical Assistance Program Pennsylvania State University University Park, Pennsylvania	To assist Pennsylvania business and industry in learning about and adopting new technology through technical assistance, training and information dissemination.
Technical Assistance Center State University of New York Plattsburgh, New York	To provide managerial and technical assistance to the 16 counties which comprise three Economic Districts in Northern New York State.
Business Assistance Center Hampton Institute Hampton, Virginia	To provide technical and managerial assistance to small businesses located on the Virginia Peninsula.
Rutgers University Business Development Center Newark, New Jersey	To provide managerial and technical assistance to small businesses and to communities in New Jersey through utilization of the resources of the Center and those of the University.
Technical Assistance Center Auburn University Auburn, Alabama	To provide technical and managerial assistance to small and medium-sized firms primarily in the industrial sector of Alabama's economy.
Human Resources Development Center Tuskegee Institute Tuskegee, Alabama	To provide technical assistance and training primarily to minority businesses in the Black Belt region of Alabama.
Florida Economic Development Center Tallahassee, Florida	To provide assistance to small and medium-sized businesses throughout the State of Florida.

Name	Purpose
Economic Development Division Engineering Experiment Station Georgia Institute of Technology Atlanta, Georgia	To provide technical and management assistance to small and medium-sized firms throughout the State of Georgia.
Center for Business Development College of Business and Economics University of Kentucky Lexington, Kentucky	To provide technical assistance to small firms, communities and non-profit organizations throughout the State of Kentucky.
Regional Economic Development Center Memphis State University Memphis, Tennessee	In support of local economic development initiatives to provide technical assistance to small firms in Western Tennessee.
Business Development Center Tennessee State University Nashville, Tennessee	To provide technical and managerial assistance and training primarily to minority entrepreneurs located in Nashville, Tennessee.
Mississippi Research and Development Center Jackson, Mississippi	To provide assistance to small firms, particularly new ventures, located in EDA supported Economic Development Districts.
Economic Development Center St. Augustine College Raleigh, North Carolina	To provide technical and managerial assistance, primarily to minority firms in six counties in Central North Carolina.
Economic Development Office Center for Improving Mountain Living Western Carolina University Cullowhee, North Carolina	To provide a wide range of technical services to business and local government in the 28 western counties of North Carolina (Appalachian region).
Center for Urban Economic Development University of Illinois at Chicago Circle Chicago, Illinois	To provide a wide range of technical services primarily to community based economic development organizations.
Industrial Development Division University of Michigan Ann Arbor, Michigan	To provide throughout the State of Michigan a program of technical and managerial assistance focussed on firms with high growth potential.

Name	Purpose
Management and Technical Assistance Center University of Minnesota Minneapolis, Minnesota	Utilizing the university extension system to provide technical assistance and advice to small and medium-sized firms.
Industrial Research and Extension Center University of Arkansas Little Rock, Arkansas	To provide training and technical assistance to small businesses throughout the State of Arkansas.
Business Assistance and Resource Center University of New Mexico Albuquerque, New Mexico	To carry out a small business assistance program in the major population centers of New Mexico.
University Center of Oklahoma East Central Oklahoma State University Ada, Oklahoma	To provide training and technical assistance to small firms in 23 counties in the eastern, central and southern portions of Oklahoma.
Center for Economic Development College of Business Administration University of New Orleans New Orleans, Louisiana and Economic Development Center Louisiana State University Baton Rouge, Louisiana	To provide in the City of New Orleans and in the Counties surrounding Baton Rouge a program of technical and managerial assistance to small businesses.
Economic Development and Technical Center Xavier University of Louisiana New Orleans, Louisiana	To provide technical assistance primarily to New Orleans' minority entrepreneurs.
Center for Economic Development University of Texas at San Antonio San Antonio, Texas	To provide technical assistance and counseling to small firms located in San Antonio, Texas
Economic Development Center Texas Southern University Houston, Texas	To provide training and counseling primarily to minority firms in Houston, Texas.
Small Business Assistance Center University of Colorado (Box 434) Boulder, Colorado	Utilizing the resources of the several institutions which make up Colorado's system of higher education to provide a full range of technical assistance to small and medium sized firms.

Name	Purpose
Center for Industrial Research and Service Iowa State University Ames, Iowa	To provide a wide range of technical and other services to small and medium-sized firms throughout the State of Iowa.
Industrial Research and Extension University of Missouri Columbia, Missouri	To carry on a program of management and technical assistance to small and medium-sized firms utilizing the resources of the four campuses of the University of Missouri.
Center for Economic Development North Dakota State University Fargo, North Dakota	To provide a wide range of technical assistance to small firms throughout North Dakota and to Indian reservations in North and South Dakota and Montana.
The Oregon Productivity Center School of Industrial and General Engineering Oregon State University Corvallis, Oregon	To assist firms throughout the State of Oregon to improve productivity through the introduction of new technology.
Urban University Center University of Southern California Los Angeles, California	To provide assistance to small and medium-sized firms in the manufacturing sector of the Los Angeles economy as well as to community based organizations.
Small Business Development Center Washington State University Pullman, Washington	To carry out a program of assistance to small business throughout the State of Washington.

QUESTION:

Is this program similar to other Federal programs?

ANSWER:

The EDA University Center program, while similar to the Small Business Guidance and Development Center (SBGDC) program, serves a completely different group of Universities and provides a comprehensive range of economic and business development assistance.

The SBGDC program of the SBA provides grants primarily to land grant colleges and universities, for purposes of providing management and technical assistance to prospective and existing small businesses. The assistance is provided by the university professors and students, focusing on the following areas.

- marketing studies
- inventory control
- financial analysis
- management procedures

Economic Development Revolving Loan Fund

QUESTION:

As of October 1, 1983, the EDA revolving fund had a balance of $206 million. However, approximately $75 million consisted of interest payments that had not be collected. What is the current balance of the revolving fund, and how much of this consists of interest payments yet to be made?

ANSWER:

Cash on hand as of February 28 was $197.5 million; this figure excludes interest receivable. The following table describes the FY 1983 and 1984 year end status of the Economic Development Revolving Fund in terms of unobligated balances; amounts are in thousands.

FY 1983

Starting Balance	$206,293
Collections target	85,378
New Obligations:	
Interest	95,662
Estimated Default and CPC expenses	67,000
Transfer	32,500
Ending Balance	132,509

FY 1984

Collections target	121,378
New Obligations:	
Interest	59,662
Estimated Default & CPC expenses	65,000
Ending Balance	129,225

QUESTION:

When does the Department estimate the fund will need additional capital?

ANSWER:

We cannot make a precise projection. The estimates for defaults shown in the budget are based on historical averages. If previous rates of default continue in FY 1983 and subsequent years, the fund would remain solvent for several years. However, there are several large guarantees in the portfolio, none of which have been included in the projections for defaults in FY 1983 or 1984. Should any of these major guarantees go into default, the assets in the fund could be depleted and additional capital would be required.

Loan Guarantee Program

QUESTION:

In the continuing resolution, the Congress provided for $150,000,000 in guaranteed loans for steel companies. What is the current level of guarantee in each case?

ANSWER:

No guarantees have been awarded in FY 1983.

We are now in the process of preparing a notice for publication in the Federal Register which will announce the availability of the EDA guaranteed loan program and outline the criteria and procedures the Agency will use in administering the program. This notice should be completed within the next several days.

QUESTION:

Please list the specific loans approved and the totals in each case.

ANSWER:

In FY 1983, EDA has not received or approved any loan guarantee applications.

INTERNATIONAL TRADE ADMINISTRATION

EXPORT CONTROLS

QUESTION:

What effort has been made to implement all GAO's recommendations?

In May of last year, a GAO report characterized the commercial export licensing system as largely a meaningless paper exercise because only 1 out of every 17 export applications, receives careful examination by the Government. This report, I understand, was reviewed by the President's Committee on Regulation and they unanimously recommended to the President that all the report's recommendations should be implemented.

ANSWER:

There are several projects in process to review the Commodity Control List (CCL), to eliminate low technology items, and review and revise the high technology items requiring validated licenses. A Coordinating Committee (COCOM) Review is in process, unilateral controls are reviewed annually and an examination of low technology items for possible elimination of controls on exports to COCOM countries is in process.

QUESTION:

Is it true that the Administration has made a proposal to our NATO partners and Japan that would effectively implement GAO's major recommendations to reduce export licensing requirements? What is the proposal, and what is the likelihood that it will be adopted?

ANSWER:

A proposal to our NATO partners and Japan to reduce export licensing requirements has not, to our knowledge, been made.

QUESTION:

Has any other effort been made to elimimate those items which no longer represent a military risk from U.S. licensing requirements?

ANSWER:

There are several ongoing efforts to eliminate items from the Commodity Control List which no longer represent a military risk to the United States. A COCOM Review now in process will revise and update the commodity list. This will be completed next fall. Also a Militarily Critical Technologies List (MCTL) Review is in process.

QUESTION:

What effort has been made to eliminate licensing requirements to our NATO partners and other close allies?

ANSWER:

A harmonization program has been initiated with our COCOM partners to standardize export regulations and procedures that will eliminate conflicts and gaps among countries. When this is accomplished, elimination of licensing to COCOM countries or the possible elimination of low technology items to our allies, may be a reality. A team left for Europe on the 20th of February to initiate a Harmonization Review with our NATO allies. A study is in process to identify low technology items requiring licenses to our COCOM allies.

QUESTION:

If those applications which receive little review were eliminated, how many staff years could be eliminated from Commerce's FY 1984 budget?

ANSWER:

If COCOM countries were eliminated from licensing requirements, five staff years could be saved. We would not, however recommend their elimination from the Commerce/Export Administration budget because they could be used to address other needs in the Export Administration program area.

QUESTION:

GAO has recommended to the Congress that it amend Sections 10(d) and (f) of the Export Administration Act to permit Defense to make the initial recommendation on export applications that must be reviewed by Defense and have Commerce limit its review on these applications to those that Defense recommends denying or approving with conditions. Such a change, GAO believes, would reduce by up to 30 days the time required to reach a decision on most of the more sensitive applications and reduce staffing needs at Commerce.

Commerce and State, I understand, do not favor such a change in the Act because it might damage the balance that now exists in license decisionmaking. Could you elaborate on this for me?

ANSWER:

Processing time under the GAO proposal would not decrease materially, and certainly not by as much as 30 days. The exporter has long been required to provide supporting information with applications, and yet the initial Commerce review frequently finds cases of incomplete submissions. If such cases were referred to Defense, they would have to be returned to Commerce for the missing information. This would only delay the return to the applicant and result in increased processing time, since Defense would still need its full review time upon resubmittal. The suggestion further presupposes that Defense has the same technical competence in all areas as Commerce, and thus would reach the same licensing decisions without the initial Commerce review as it now reaches with that review. Absent the initial Commerce review, we would expect the number of incomplete applications and the number of Defense denial recommendations to increase significantly.

The present system requires each agency involved in processing a case to do an analysis and determine how the individual case compares with technical and policy precedents. This develops a body of knowledge within each agency that can then be applied to future cases. If Commerce is not involved in reviewing cases that go to Defense, it will not have the necessary background to evaluate Defense denial recommendations and determine whether they should be challenged.

QUESTION:

Wouldn't Commerce retain all of its current responsibilities, including administration coordination and approving and denying applications under the proposed change?

ANSWER:

The proposed change would leave Commerce with a largely clerical role. Cases would be delivered to Defense without substantive review, and when Defense rendered a favorable decision the license would be validated and mailed.

QUESTION:

If the recommendation was adopted, how many staff years could be saved at Commerce?

ANSWER:

As indicated above, we do not see this proposal as providing any meaningful reduction in staff, although the character of the staff may change somewhat.

QUESTION:

Can you tell me why Defense and the President's Committee on Regulation favored the change in the Act?

ANSWER:

We do not know why either Defense or the President's Committee on Regulation favored the change. Defense demands more thorough analysis by Commerce, not less.

QUESTION:

Several additional foreign policy controls were imposed in 1982 (i.e., on exports to the Soviet Union and to Libya). How have your staffing and resource needs changed to accommodate the extra administrative work these controls entail? How has average processing time per export license application changed from 1981 to 1982?

ANSWER:

The Soviet oil and gas controls imposed in 1982 were handled by existing staff and had a disruptive effect on other activities. Had these controls continued, we may have had to expand our staff to compensate. The Soviet controls were discontinued in November of 1982, however, so we no longer have this problem. The Libyan controls caused a major backlog when initially imposed because the broad range of additional commodities controlled to Libya resulted in several hundred additional export license applications and each application had to be referred to the Department of State for review. We worked with State to identify the types of transactions of major concern and excluded the others from State review. State now sends an officer to OEA regularly to review the potential problem cases and make an on-the-spot decision on most of them. This has greatly reduced the referrals to State and the overall processing times of Libyan cases. At present, we can deal with the Libyan controls without additional resources.

Regarding the average processing time per export license, a more realistic indication of the export licensing workload is a comparison of the average number of processed cases per week. For FY 1981 and FY 1982 the change is as follows:

Average Case Load/Week Processed

	1981	1982
Free World	1,247	1,421
Bloc	*161	120
TOTAL	1,408	1,541

*

During 1981 a concentrated effort was made to eliminate a 2000 bloc application backlog.

QUESTION:

With regard to the Export Administration Act's requirement that Commerce assess domestic economic impact as part of the process of imposing foreign policy controls, there have been numerous complaints: (a) about the minimal extent to which Commerce actually has consulted with affected U.S. businesses; and (b) about the weakness of Commerce's analysis of economic impact. Does Commerce presently have the capability to carry out these responsibilities?

If not, what is needed? If so, what is your response to these complaints.

ANSWER:

We recognize that economic assessment is a difficult process that can seldom be done well enough, because information is elusive and time is generally inadequate. We do feel that the resources exist within Commerce to accumulate and analyze economic information, and to draw conclusions.

The industry complaints seem to be based not so much on the accuracy of our assessments as they are on the lack of time for industry input before controls are imposed and the tendency to impose controls even though the assessment indicates strong economic impact. There is validity to these complaints. We frequently must impose controls with a very short lead time, so industry contacts are limited to phone calls or hurried meeting with minimal time for industry response. For controls imposed on Libya in March of 1982, for instance, the broadest industry representation that could be assembled on short notice attended an afternoon meeting where controls were outlined, and were asked to comment by noon of the next day. The attendees felt that time was inadequate. The decisions to control are made on foreign policy grounds that are determined to override commercial considerations, so an adverse economic assessment is not considered sufficient grounds to discontinue controls.

Economic impact must be reassessed annually, and industry is given ample time to comment. These comments are seldom helpful in assessing economic impact, perhaps because they are a matter of public record. Firms seem reluctant to provide any specific economic information when the comments will be available to the public. In this regard, specific protection of such information in the confidentiality provisions of the Export Administration Act (Section 12(c)) might prove helpful.

QUESTION:

Some industry representatives have complained about delays in the issuance of licenses for certain electronic products and components including computers which the executive branch contends are "dual-use" nuclear related items. Does ITA have sufficient staff and other resources to perform this function in a timely manner and what actions have been or are being taken to improve performance in this area?

ANSWER:

ITA refers all "dual-use" nuclear related items to the Department of Energy (DOE), for their review. By agreement between DOE and ITA, DOE personnel meet with Commerce personnel on a weekly basis to review such cases. The normal turn-a-round time for these cases is 30 days. ITA believes this to be a timely review as another agency review is required.

FOREIGN COMMERCIAL SERVICE (FCS)

QUESTION:

GAO's report (ID-83-10, 10/18/82) on the Foreign Commercial Service noted some problems in the operations.

Has the Commerce Department been able to overcome staffing problems at its FCS headquarters? Describe what has been done.

ANSWER:

The Commerce Department has taken steps to overcome the problem of inadequate FCS headquarters staff during the first years of operation.

In January of last year, the U.S. and Foreign Commercial Services (US/FCS) programs were merged. The integration provided an opportunity to review US/FCS headquarters operations and to allocate resources. In 1980, the FCS started operations with 17 headquarters staff. In addition, nine training complement positions were transferred from the Department of State for a total of 26 positions. Now, US/FCS headquarters staff consists of 96 positions. This number includes the original positions, positions from the original USCS headquarters, five positions reprogrammed from Export Development in 1982, and additional positions included in the 1983 budget.

At the Departmental level, there has been an effort to recruit for some positions (i.e., financial management, personnel policy) individuals with extensive experience and/or knowledge of the Foreign Service system.

Last year, the US/FCS developed a Foreign Service personnel office and has provided training. US/FCS personnel officials served several weeks of temporary duty at an overseas post (1) to become sensitive to US/FCS employees' needs, (2) to become familiar with overseas post systems, and (3) to brief administrative staff on the operations and policies of the the US/FCS.

QUESTION:

Does FCS continue to have difficulty filling overseas vacancies?

ANSWER:

FCS no longer has difficulty filling overseas vacancies, with minor exceptions involving positions requiring rare or unusual experience and/or skills. Despite our demanding qualifications criteria, the US/FCS have received an overwhelming response to our three annual recruitment campaigns. We received more than 1,100 applications in both the 1981 and 1982 cycles, and more than 1,300 applications in the 1983 cycle.

We have been able to identify more than ample numbers of superbly qualified candidates from these applicants. Selection is made through the use of a career-candidate "assessment center" examination procedure adapted from that used by the Department of State.

QUESTION:

Describe the education and training program Foreign Commercial Service operates for its commercial recruits.

ANSWER:

All new recruits are brought to Washington for a minimum of four weeks of initial training. For all officers this includes the one day "Coping with Violence Abroad" course at the Foreign Service Institute, a minimum of two weeks of consultations with Department of Commerce and other Government officials, and a briefing on the operation of the FCS. Where possible, officers also take the one week Foreign Service Orientation Course and the two week Area Studies course applicable to the country to which they have been assigned.

Most initial assignments are based on the new recruits' existing language skills. However, where necessary, new officers are given courtesy level or complete language training. Such training is given, where possible, at the Foreign Service Institute.

In addition, all new recruits are given copies of the self-study commercial officer course, developed by the University of Maryland under contract to FCS. This 1,000 page course covers the basic commercial elements and skills required by the Commercial Officer and serves as both a teaching and refresher aid.

QUESTION:

Do the commercial sections at posts have the independence from the economic sections as envisioned in the trade reorganization? Describe their respective roles and any overlap of duties.

ANSWER:

Based on a recent study undertaken by the Department of Commerce in conjunction with the Department of State, we concluded that in the majority of FCS posts, commercial sections were performing their basic function of promoting trade independently of the economic sections as envisioned by Trade Reorganization. However, the work of economic and commercial sections involves a multitude of responsibilities. In some cases they are clear cut, while in others they tend to merge or overlap. Basically, however, the role of economic officers is economic analysis and reporting, while the principal activity of commercial officers is the promotion of U.S. exports. Merging or overlapping responsibilities occur in areas relating to trade policy, export control activities, industry reporting and protection of U.S. trade and investment.

QUESTION:

What are Commerce Department responsibilities with regard to assisting U.S. firms participation in purchases covered by the bilateral agreement with Japan on procurement for its national telephone and telegraph system?

ANSWER:

As a result of the MTN Agreement and a subsequent bilateral agreement between the United States and Japan, foreign companies are allowed to participate in Nippon Telegraph and Telephone Public Corporation (NTT) procurement on a competitive, non-discriminatory basis. Under the terms of the three-year agreement (expires in December, 1983) NTT observes the Government Procurement Code requirements for all its purchases.

The Department of Commerce is charged with implementing and monitoring this agreement. NTT tender announcements are telegraphed to Washington from Tokyo and then disseminated to U.S. firms through the Trade Opportunities Program (TOP). Commerce District Offices also receive selected NTT announcements for distribution. Also, summaries are published in Commerce Business Daily. Department trade specialists work with the trade associations to disseminate notices. Counseling on how to sell to NTT is provided to U.S. firms in Washington and Tokyo.

Because all qualification applications, bids, and contracts must be prepared in Japanese, the Department assists potential U.S. bidders in obtaining translation services. In addition, procedures and regulations on NTT procurements have been translated and made available to U.S. firms.

Because representation in the local market is critically important for successful bidding, the Department aids U.S. suppliers in establishing contacts with potential representatives in Japan. The Department also has prepared a number of seminars and trade missions to advise U.S. industry on government procurement procedures and policies and the most effective approaches to successful bidding in the Japanese market.

SERVICE SECTOR TRADE

QUESTION:

Commerce in its response to GAO's report (ID-82-39, 8-23-82) "International Insurance Trade--U.S. Market open: Impact of Foreign Barriers Unknown" stated that it is working with the Bureaus of the Census and Economic Analysis to enhance international data on insurance and other service sectors. Further, it was noted that Commerce's work draws upon studies contracted by Commerce and other agencies to assess current data availability and recommend methods of data improvement. What progress has been made and what are the budgetary implications of such efforts?

ANSWER:

Progress has been made in two areas. The first concerns the revision of the questionnaire to be used in the 1982 benchmark survey of U.S. foreign investment. The revised questionnaire includes a significantly expanded list of specific service industries. Also, it will request information not previously available on sales of services separately from total sales by the reporting companies.

The second concerns the form used by the Bureau of Economic Analysis to collect information on the foreign contract operations of U.S.

companies. This form has been revised to show gross rather than net amounts; this change will provide a more complete picture of this type of business than was available in the past.

These changes have been accomplished within existing resources.

SMALL BUSINESS

QUESTION:

GAO's staff study (ID-83-21, 1/18/83) on efforts to promote exports by small non-exporting manufacturers noted that Commerce began in September 1982 to fully implement a system for targeting small, non-exporting firms. What is being done and how are you tracking the results being obtained?

ANSWER:

The following steps are being taken by ITA:

- Communications from USCS Headquarters to the District Offices stress targeting of small non-exporting firms.
- The District Offices' annual work plans target New-to-Export firms with less than 250 employees, the ITA classification for Small Business.
- The District Office Business Contact Report Form which is completed by the Trade Specialist also specifies the size of the company by number of employees, i.e., 1-49/50-99/100-249. These forms are part of the Trade Specialists' Monthly Report to the Director. This enables effective tracking.
- Statistics for 1981 show that 86 percent of District Office clients had fewer than 250 employees, and 73 percent had fewer than 100 employees.

QUESTION:

What efforts are being made to encourage small non-exporters to participate in trade missions and trade fairs?

ANSWER:

ITA does not specifically "target" its trade missions and fairs to small non-exporters. Missions and fairs are not always the most cost effective methods for these firms to initiate export marketing because of the high total cost to firms of taking part in these events, (e.g., travel and shipping), and the long time-frame required to reap the profits of their marketing investment. Catalog exhibitions, for example, are often more appropriate low-cost vehicles for small non-exporting firms to gain market exposure and make export sales.

The product and market characteristics are the critical determinants of the success of small non-exporting firms participating in missions and fairs. For this reason, Commerce feels that a more beneficial and realistic course of action is to select prospective event participants based on which firms can benefit most from participation. Size and experience should not be the sole determinants. Export Development's industry officers work closely with individual firms, industry groups and associations to ensure that all firms who can reasonably be expected to benefit from participating in fairs and missions are given an opportunity to do so.

FOREIGN SUBSIDY INFORMATION

QUESTION:

Under the Trade Agreements Act of 1979, Commerce is supposed to establish a library of foreign subsidy information. What is the status of the library? Also, what additional steps, if any, is ITA taking to ensure that information about foreign subsidy practices is readily available to the private sector?

ANSWER:

The subsidy library has been in operation since January 1982. Currently, the library maintains copies of publications such as the Import Weekly, National Journal, Journal of the European Communities, Business America, and Europe which are received on a daily basis. Also included is current legislation by Congress on various trade matters; Federal Register notices pertaining to countervailing duty investigations and cables, airgrams and telegrams from the foreign embassies through the State Department. Books, periodicals, and pamphlets regarding the General Agreement on Tariffs and Trade are available. Law books, particularly, international trade laws are cross-referenced from the main library and the law library in the Department of Commerce. We also have access to a clipping service to ensure that all subsidy information is gathered.

Public files are maintained on all countervailing duty investigations currently being handled by the Office of Import Administration.

In January of 1982, a computer data base system for record retrieval was approved for cataloging and indexing subsidy information. Reporting and user criteria was designed. There are approximately 250 records currently in the system. However, over 2,000 records are coded and ready for input. Members of the private sector using the subsidy library have expressed satisfaction with the materials available.

MINORITY BUSINESS DEVELOPMENT CENTER

MINORITY BUSINESS DEVELOPMENT CENTER

Question:

Describe how MBDA interacts with other business development programs of the Commerce Department and with the Small Business Administration.

Answer:

MBDA interacts with the Department in many of its activities. Its

Technology Commercialization Program is an integral part of the Department's innovation activities in conjunction with the Office of Productivity Technology and Innovation. MBDA is represented on the Departmental Productivity Working Group. The Technology Program also works with the National Bureau of Standards, National Technical Information Service, and with the National Telecommunications and Information Administration.

Through the Agency's Technology Commercialization Center at Georgia Institute of Technology, patent searches have been provided to minority inventors and firms developing new products. More direct coordination has been discussed with the Patent Office (PTO) and will become more practicable as the PTO computerizes its patent information.

MBDA has established a new Minority Export Development Consultant program with 15 consultant organizations throughout the U.S. These consultants provide management and technical assistance as well as brokering services to assist minority firms to move profitably through the complexities required to export to foreign markets. This new program operates in cooperation with the International Trade Administration.

In addition, MBDA participates with several other agencies in the Intradepartmental Committee for Minority Business Enterprise. The committee's aim is to develop an inventory of departmental resources that can be made available to support and enhance minority business development in accordance with the Administration's initiative.

MBDA and SBA interact formally through two interagency agreements. Also, as a requirement, all of our business development center operators are charged with establishing relationships with SBA entities, district offices, and SBA funded organizations including the Small Business Development Centers.

Question:

Do Minority Business Development Centers share information or space with Small Business Development Centers? If not, why not?

Answer:

Small Business Development Centers (SBDCs) do not share space with Minority Business Development Centers (MBDCs). However, they frequently share information. SBDCs are located on university campuses and are designated to develop small business management delivery systems. SBDCs provide client consultations primarily utilizing professors, students and SBDC employees. They provide this management and technical assistance to those small businesses located in the areas served by the university.

The SBDCs are: academic based and oriented, mandated to serve all small businesses (not just minority), provide classroom training and management development programs, are significantly more research oriented, and do not provide the indepth range of marketing management, financial and informational services available from the BDCs.

MBDC/SBDC Informational links:

- MBDCs can assist SBDC minority clients.
- SBDCs can identify existing university training programs.

Question:

The U.S. and Foreign Commercial Service is involved in an active export promotion program. Is MBDA involved in this effort, and if not, why not?

Answer:

On September 24, 1982, MBDA and the International Trade Administration (ITA) of which the U.S. and Foreign Commercial Service is a part, established an interagency agreement. The terms of this agreement specifically call for cooperation between ITA and MBDA's new Minority Export Development Consultants (MEDC) in assisting minority firms in export promotion. Under the agreement, ITA provides export counseling, information on markets and domestic and overseas trade shows, and assistance in preparation for the trade shows through the MEDCs for their minority clients. This cooperative arrangement is in its first year of operation and is moving ahead as planned.

On February 16 & 17, 1983, MBDA held a resource seminar for the fifteen MEDCs. ITA representatives were included among participants from both government and industry who briefed the MEDC directors on the current resources available to minority firms engaged or interested in export.

U.S. TRAVEL AND TOURISM ADMINISTRATION

QUESTION:

In the continuing resolution for fiscal year 1983, the Congress earmarked $500,000 of the total appropriated for the U.S. Travel and Tourism Administration for promoting tourism to the State of Hawaii in the wake of Hurricane Iwa. How was this money expended?

ANSWER:

The funds have been made available to the Hawaii Department of Planning and Economic Development via a grant that will be transferred under contract amendment to the Hawaii Visitors Bureau. The grant proposal from the State of Hawaii envisions an intensive international advertising and promotion campaign to dispel the image of devastation caused by Hurricane Iwa. All project activity will be aimed at the international market. The contract amendment will provide detailed project activities and will become a part of the grant instrument upon receipt and approval. Receipt of the amendment is expected in the very near future. Reports of accomplishments by the grantee will be available within a few months.

QUESTION:

What activities of USTTA will be eliminated by the proposed budget reductions?

ANSWER:

All program activities which cannot be performed personally by USTTA regional staff will be eliminated:

1. Consumer and trade information: Telephone and mail response services at present provided by contractors at three locations in Canada will be discontinued. Similar service by part-time and seasonal contractors at three European locations will be eliminated. USTTA employees, within the limit of staff time and facilities, will continue to provide this service at USTTA locations abroad.

2. Media services: Media support services presently contracted to professional media agencies will be eliminated at all six USTTA regional locations.

3. Mailhouse services: Contracts for the warehousing and distribution of bulk supplies of information literature and promotional supplies will be eliminated. Storage and distribution of such materials to wholesalers and retail agents by the contractors will be discontinued.

4. Trade development: Sponsorship of USTTA-originated training seminars and workshops will be conducted by USTTA personnel, when this can be done at no cost to the Agency.

5. Consumer literature: The use of appropriated funds for the development of informational materials for trade and consumer use will be eliminated. Distribution of existing materials will be continued.

6. Research: Analysis of the results of the inflight survey will continue according to receipts from users.

7. Multilingual receptionists: USTTA participation in support of this program will be terminated.

QUESTION:

On page USTTA-10 of the budget justification, it is stated, "In 1984, USTTA will continue its efforts to secure alternate funding for promotional marketing activities. Specific marketing projects should be funded from private sector tourism interests." What progress has been made to secure private funding for marketing activities?

Specifically what groups, trade associations, or other private interests have been approached for their involvement?

ANSWER:

The Marketing Plan submitted to the Congress on March 14, 1983, includes a discussion of concepts for public and private sector participation in USTTA program funding. (Section V. ALTERNATE FUNDING - page 42-50.)

This discussion includes the identification of a number of specific municipal and corporate entities and associations who in the past and in the current year have supported USTTA with contributions in cash and services in kind valued at nearly $4 million annually. The Agency would in the future solicit similar support from similar entities and groupings.

New efforts are being undertaken in Canada, the United Kingdom, and Germany to involve the public-private sector in common promotional ventures of cooperative advertising. If successful in FY 1983 with limited seed-funding by USTTA, these projects could become self-supporting in FY 1984.

QUESTION:

Will the USTTA retain its overseas staffing level? If no tourism promotion materials are forthcoming from the private sector, what will these people do?

ANSWER:

Maintenance of a professional staff in key locations is of prime importance. USTTA offices will be able to provide coordination between the foreign travel trade and industry representatives and U.S. destinations. The professional staff, placed near foreign travel media offices, can provide many of the personal services and functions expected from a national tourist offices.

NATIONAL BUREAU OF STANDARDS

Additional Legislation Requirements

QUESTION:

Are any of the NBS programs being proposed for reduction or elimination going to require legislation for you to do so?

ANSWER:

The proposed reduction of $438 thousand associated with the replacement costs of Standard Reference Material (SRM) production is contingent upon legislation that would allow NBS to charge for and retain replacement costs from the sale of Standard Reference Materials. By permitting funds to be retained to cover current and reasonable future needs, if products and services are appropriately priced, the need for appropriations to make up the difference between replacement and original costs would be avoided. Instead of the general taxpayer, the users of Bureau services and products would shoulder the burden of increased replacement costs.

No legislative changes would be required for the other proposed reductions, since the determining factor is the amount provided for the function through the appropriation process.

Building Research Program

QUESTION:

Program decreases totaling about $25 million are proposed for fiscal year 1984 -- including eliminating the Building Research and Fire Research programs. Has the private sector taken over programs like this in the past, and what evidence do we have that the private sector will increase their research efforts in these areas?

ANSWER:

The Building Research and Fire Research programs have been proposed for elimination in support of the Administration's position that the private sector and state and local governments should take a greater role in supporting these activities. NBS is hopeful that the private sector organizations presently active in related work would take over some of its responsibilities.

QUESTION:

With regard to the Building Research Progams proposed for elimination, who, specifically, will investigate in the future major building and construction disasters like the walkway collapse in the Kansas City Hyatt and the East Chicago Indiana Highway ramp collapse?

ANSWER:

State and local governments can rely on existing competent consulting engineers to perform these investigations.

Building Research Program

QUESTION:

What level of funding were other Federal agencies providing to NBS for building research in fiscal year 1982 and 1983, and what agencies were involved?

ANSWER:

Other Federal agencies provided $7.5 million for building research in fiscal year 1982 and an estimated $7.8 million in fiscal year 1983. Funding for the major agencies is summarized as follows:

Agency	FY 1982 $M	FY 1983 Estimate $M
Department of Energy	$4.3	$4.5
Department of Defense	1.1	1.1
General Services Administration	.4	.4
Department of Interior	.4	.4
Department of Labor	.4	.4
Federal Emergency Management Agency	.2	.2
Housing and Urban Development	.2	.2
Other	.5	.6
Total	7.5	7.8

Fire Research Program

QUESTION:

Reductions totaling almost $6 million are proposed for fire research (p. NBS-76). Your Budget (p. NBS-77) states that, as an integral part of the program, grants of $2 million were provided annually to 30 universities and organizations for fundamental fire research, and that those grants represented the only funding for research through which the Nation's new fire scientists are trained.

Who will fill this gap to train fire scientists if we approve the proposal to eliminate the fire research program?

ANSWER:

We do not know who would fill the gap, but there are several possibilities. Prior to the establishment of the Center for Fire Research (CFR), the National Science Foundation supported some research in this area. Universities could forward proposals to them. The scope of academic research sponsored by several mission agencies such as the Department of Transportation (Federal Aviation Administration) or the Department of Defense (Navy) could be extended to include more fundamental studies of fire in areas specific to their concerns. Alternatively, universities could turn to their state government or to private industry for support of graduate students and research.

QUESTION:

What incentive will there be for industry to step in to perform fire research on products such as clothing and other fabrics and materials?

ANSWER:

The National Bureau of Standards' Center for Fire Research does no product development or product testing or evaluation. This is done by the private sector. NBS develops test methods and fundamental knowledge required by these test methods. Test work based on existing procedures can continue until new products and materials require modified test methods. At that point industry would have to develop test methods to assure market acceptance of their products.

QUESTION:

Page NBS-80 shows that the Federal Emergency Management Agency (FEMA) in fiscal year 1982 provided $3.5 million to NBS for fire research but in fiscal year 1984 virtually no funds were expected from FEMA. Have they also reduced or eliminated their fire research efforts?

ANSWER:

In fiscal year 1982 the Federal Emergency Management Agency (FEMA) provided $3.5 million to NBS for fire research as a pass through. In fiscal year 1983 the base of the Center for Fire Research was increased by $3.5 million and this item was dropped from FEMA's budget. FEMA does not do laboratory-based fire research now and they never have.

Standards Development

QUESTION:

Standards Development -- a reduction of $7 million or 70 percent of the fiscal year 1983 funds appropriated for the computer sciences and technology is proposed.

Will NBS be able to carry out its statutory responsibilities under the Brooks Act in developing Federal Automated Data Processing (ADP)?

ANSWER:

With a 70 percent reduction in funding, NBS would not continue its technical leadership and support to voluntary industry standards processes or its development of many technical products and services that address user needs for more effective management of computers. These activities directly support Brooks Act functions related to ADP standards, technical assistance, and research in computer science and technology. At the reduced level, NBS would concentrate on modifying and adopting industry standards for Federal use and focus on one aspect of computer technology, local area networks, rather than the current range of interrelated technologies for networks, data communications, software, data management, and computer security.

QUESTION:

Who will monitor Federal agency compliance with mandated ADP standards if this program is reduced as proposed?

ANSWER:

NBS does not have the responsibility for enforcing standards but does carry out a modest effort to monitor agency utilization of standards to gather information on problems with implementation and on modifications that might be needed. This work would not continue at the reduced level.

Central Computing Facility

QUESTION:

Has the study scheduled for completion in December 1982, concerning your computing requirements been completed? If so, does it show that a consolidated NOAA/NBS system would be best?

ANSWER:

The study was completed in January 1983. It was conducted by DoC, with staff drawn from NBS and NOAA. DoC contracted with Arthur Young & Co. for requirements analysis and evaluation of options. The Arthur Young report recommended a single large computing facility, linked to smaller computers at other sites. DoC has endorsed this recommendation and has chosen Gaithersburg as the site of the large facility.

QUESTION:

You are requesting about $9.5 million for procurement of computer hardware. How many years will this hardware serve your needs? Was leasing this equipment examined as an alternative to purchasing?

ANSWER:

The $9.5 million shown for fiscal year 1983 includes unobligated funds from fiscal year 1982. These funds were to acquire computing capability at NBS through a combination of purchase and lease, to be determined by specific costs included in vendor proposals. However, the DoC study of the computing requirements of NBS and National Oceanic and Atmospheric Administration/Environmental Research Laboratory (NOAA/ERL) recommended a consolidated computing facility serving both organizations through 1991. Implementation planning is now underway and will address resource requirements and availability and the potential for lease arrangements.

Standard Reference Materials

QUESTION:

Your budget (p. NBS-100) shows that about $5.7 million will result in fiscal year 1984 from sales of Standard Reference Materials to the public and government. Also, (p. NBS-103) over $3 million will be spent to produce Standard Reference Materials.

An April 1981 General Accounting Office (GAO) report to the House

Subcommittee on Science, Research, and Technology stated that a questionnaire sent to industrial users of NBS standard reference materials showed about 46 percent of the users said that the NBS produced reference materials they had bought were also produced by others.

Has any consideration been given to cutting back NBS production of those standard reference materials available from the private sector -- in line with the Administration's emphasis to terminate NBS activities that the private sector should conduct.

ANSWER:

NBS Standard Reference Materials (SRM's) and commercial SRM's are complementary not competitive. The SRM program focuses on high-quality "benchmark" SRM's as opposed to volume production. NBS SRM's are considered primary reference materials and serve to provide traceability to the unique capability of NBS in definitive measurement methods. In this manner interlaboratory compatibility of measurements is assured on a national scale.

NBS encourages and assists commercial producers of reference materials. Hundreds of commercial suppliers of reference materials depend on NBS, as well as other government SRM producers, to provide the most accurately certified "benchmark" SRM's. Not only does NBS provide the "benchmark," it also helps other producers with measurement methodology and in making their products known to potential users.

When measurement systems do develop to the extent that measurements can be routinely made and guaranteed by the private sector without NBS assistance, NBS policy is to discontinue the related SRM's.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

Staff Resources

QUESTION:

Does NTIA have enough staff resources available to meet the broad responsibilities for telecommunications planning and coordination given to the Department of Commerce under Executive Order 12046?

ANSWER:

Yes, the 1984 budget request would provide sufficient staff resources for NTIA to be able to address major telecommunications issues and uphold its responsibilities under Executive Order 12046.

QUESTION:

Has NTIA had problems in retaining qualified, competent technical staff given the expanding private sector competition and investment in telecommunications?

ANSWER:

Although NTIA has experienced occasional difficulties in retaining its most highly qualified technical staff due to its inability to compete with the salary levels which are offered by private firms, NTIA has by and large been able to retain a full staff of qualified, competent technical employees.

Private Contractor

QUESTION:

Specifically, in what cases has an NTIA employee left civil service status to be hired as a private contractor to NTIA for similar functions?

ANSWER:

There have been no cases in which an NTIA employee, after leaving civil service status has been hired as a private contractor by NTIA to carry out similar functions.

Conference Preparatory Work

QUESTION:

Has the Interdepartment Radio Advisory Committee (IRAC) under NTIA been able to aid the process for budget planning and coordination among involved agencies to assure funding of technical preparations for international telecommunications conferences? Why have computer software refinements for such conferences gone unfunded as little as six months beforehand?

ANSWER:

Yes, NTIA has been able to aid individual agencies in their budget planning for future international telecommunication conferences through its overall guidance to the Interdepartment Radio Advisory Committee (IRAC) subgroups by chairing and providing certain technical resources in support to each subgroup. The subgroup plans its efforts and each representative voluntarily accepts various tasks. Each agency provides the necessary funds to carry out their subgroup representative's tasks. From time to time, special arrangements are made by two or more agencies, including NTIA, to jointly fund certain contractual studies, analyses, and/or computer models.

Computer requirements for international conferences are normally planned well in advance of the conference and funding is provided on a timely basis, noting that this is a dynamic process which often depends on actions taken after budget submission. NTIA is not aware of any computer software requirements for such conferences that have gone unfunded as little as six months beforehand.

QUESTION:

In 1981, NTIA requested 15 new positions to help prepare for the ITU conferences. Although NTIA did not receive the funding for new positions, it did receive money to sub-contract out for preparatory work and reports. Could you explain what the cost-benefits are between hiring new personnel and contracting out in terms of conference preparatory work?

ANSWER:

NTIA's FY 1981 budget submission requested 19 positions and $785,000 in order to support the number of spectrum bands assessed annually, and the number of telecommunications systems reviewed. Congress approved the 19 new positions and $712,000 of the request for these domestic frequency management activities. In 1981 NTIA did not request or receive any new positions or funds to help prepare for the International Telecommunication Union conferences, or to sub-contract out for preparatory work and reports. In the 1984 budget NTIA has requested an additional ten positions and $545,000 in order to prepare for upcoming international conferences.

With regard to the benefits of having permanent staff as opposed to contracting out, a large share of NTIA's international conference preparatory effort is policy sensitive. To deal with these issues on a continuing basis, it is necessary to have a permanent staff of personnel experienced in international telecommunications conference preparation and negotiations. It is by far the most cost-effective and responsive way to address the broad range of technical and policy issues, and negotiations associated with international telecommunication conferences.

Because of the worldwide interests, growth in telecommunication and increased conference activity, this will be a high visibility area for years to come. Contractual support for some technical tasks can be used to assist conference preparatory work in those non-policy sensitive areas.

QUESTION:

What kinds of computer analysis remain to be done for planning for RARC-83 and WARC-85? Is funding for such analysis available? Is there coordination between NTIA, FCC, and NASA on funding for computer support at ITU conferences?

ANSWER:

The basic computer models for these conferences have already been developed. For the Broadcast Satellite Service (BSS) Regional (Region 2) Administrative Radio Conference (RARC), NTIA is continuing to evaluate various satellite planning scenarios using the computer Spectrum and Orbital Utilization Program (SOUP) in support of the U.S. delegation. The SOUP applies to geostationary broadcast satellites in the 12.2-12.7 and 17.3-17.8 GHz bands.

For the first session of the Space World Administrative Radio Conference (WARC 85), NTIA is developing an expanded Geostationary Satellite Orbit Analysis Program (GSOAP) computer model for use in evaluating various satellite planning scenarios for a number of Space Services and associated frequency bands. Funding for the development has been included in NTIA's budget. NTIA will continue to coordinate its development with the Federal Communications Commission (FCC) and the National Aeronautics and Space Administration (NASA) directly and through the Interdepartment Radio Advisory Committee (IRAC) subgroup composed of various federal agencies that will prepare for the 1985 and 1988 Space WARCs.

Public Telecommunications Facilities

QUESTION:

You request no funds for public telecommunications facilities grants on the basis that "the program has essentially accomplished its goal since over ninety-five percent of the population currently receives public broadcasting."

Does the ninety-five percent coverage figure apply to both public radio and television?

ANSWER:

Ninety-five percent of the population is able to receive either public TV, public radio or both. This is an aggregate figure. The ninety-five percent coverage figure does not apply to both radio and television. Public television is received by ninety-two percent of the population and when those facilities under construction are completed it will increase to ninety-four percent. Noncommercial public radio is received by seventy-five percent of the population and will increase to almost eighty percent when facilities under construction are completed. These figures do not include FY 1982 grants.

QUESTION:

What percentage of the population receives locally originated public broadcast radio and television programming? Is such programming likely to expand without additional Federal funding?

ANSWER:

Over eighty-five percent of the population receives locally originated public television programming and over seventy-one percent receives public radio programming.

Programming should expand without additional Federal funding. More than seventy-five percent of public broadcasting income is financed through non-federal sources. Local dollars contributed by subscribers to public broadcasting stations are at an all-time high and growing steadily. In fact, subscriber revenue is more than five times that which the Public Telecommunications Facilities Program (PTFP) provides to noncommercial entities. Additionally, PTFP represents less than 7 percent of all federal funding and its funds can only be expended on hardware, thus even zero funding of PTFP would have no significant impact on programming.

QUESTION:

In FY 1982, you awarded approximately $5 million in grants to replace obsolete or worn-out equipment in existing broadcast facilities which provide either the only public telecommunications signal or only locally originated signal to a geographical area. Will the continued existence of such facilities be endangered if the facilities grants program is also abolished, as you propose?

ANSWER:

No, the Public Telecommunications Facilities Program (PTFP) has supported the replacement of most of the system's obsolete equipment and facilities. NTIA concurs with the Corporation for Public Broadcasting (CPB) in urging stations to expand their cooperative efforts, especially in light of the fact that over sixty-seven percent of stations have overlapping signals and often duplicative programming (the majority of which is not locally produced). It is believed that expanded cooperative relations would allow for more fluid use of funds for capital improvement, especially since there is already loosened restrictions governing the leasing of equipment. Existing stations should be able to comfortably replace essential equipment in order to continue service.

"No Year" Funding

QUESTION:

Why is it necessary for NTIA to have "no year" funds for salaries and expenses? How much funding does NTIA expect to carryover from FY 1983 to FY 1984? For what purposes?

ANSWER:

Due to the nature of its work, it is necessary for NTIA to have "no year" funds for salaries and expenses. A great deal of NTIA's work is research oriented and involves projects which do not fit into a fiscal year timetable. Often projects may not be completed at the end of a fiscal year and, therefore, work and the related funding may need to be carried over into the next fiscal year.

NTIA expects to carry over between $500,000 and $750,000 of FY 1983 funds into FY 1984 for ongoing projects which will not be completed by September 30, 1983. At this time, it is difficult to predict for what projects FY 1983 funding will need to be carried over into FY 1984.

Minority Telecommunications Program

QUESTION:

Please describe in detail your minority telecommunications program's accomplishments over the past two years and your plans in this area over the next two years.

ANSWER:

Since its inception the minority program has:

- increased minority-owned facilities by 100 percent going from 62 stations to over 124 by assisting the Economic Development Administration and the Small Business Administration in helping entrepreneurs.
- assisted the National Association of Broadcasters (NAB)/Minority Broadcasting Investment Fund in developing a national model management training program.
- been active in the Federal Communications Commission's (FCC) proceedings, particularly in the area of distress sales relief and tax certificates.
- conducted a "work study" to examine ratings and advertising as they affect minorities.
- held the First Minority Women's Commercial Broadcasting and Technology Conference.

During the past two years NTIA has continued to assist minorities in the field of telecommunications by working to ensure that the above efforts are continued. Also, NTIA has entered into an Interagency Memorandum of Agreement with the Minority Business Development Agency (MBDA) to aid in the coordination of minority business affairs designed to increase minority participation in telecommunications by providing information and technical assistance to the 100 Minority Business Centers located throughout the U.S.

Over the next two years, with continued industry deregulation and increased newer technology services, there will still be a need for enhancing minority opportunities, therefore, the minority program will:

- continue to participate in filings and legislative policy coordination to ensure new policies benefit minorities.
- run a clearinghouse for information on minority opportunities in telecommunications available through the various government agencies. This will assist those seeking basic industry information and sources of potential funding.
- run a Technical Planning Services (TPS) component to provide technical assistance to minority entrepreneurs in the initial steps of planning for commercial and noncommercial radio and television broadcast stations. Utilizing 1980 Census data, a planner will receive a series of population maps representing

total U.S. population and ethnic minority segments of the population. They will also be provided with a single station coverage map showing signal configuration, total area covered, total available population, ethnic population breakdown, and other information needed in designing a proposed facility. We anticipate this service will greatly increase minority ownership of broadcast facilities, especially in radio.

- continue with its interagency agreement with MBDA by providing information and technical assistance to the Minority Business Centers.
- develop and run a series of seminars in support of Executive Order 12320 to help strengthen Historically Black Colleges and Universities. The first effort has been an NTIA coordinated panel on "Telecommunications Policy and Minorities" at the 12th Annual Howard Communications Conference.

Role of Office of Management and Budget

QUESTION:

NTIA is responsible under Executive Order 12046, for coordinating the telecommunications activities of the Executive Branch and for developing policies relating to regulation of the telecommunications industry. Why then has it been necessary for the Office of Management and Budget to take the lead role in formulating the Executive Branch position on common carrier local exchange access charges and in developing responses for the NORDIC inquiries on U. S. carrier bids for specific telecommunications services?

ANSWER:

In both the NORTEL and access charge cases referred to, NTIA had in fact undertaken to develop and coordinate policy. Upon review of the NORTEL inquiries, NTIA met with the Department of State, the U. S. Trade Representative, and the Federal Communications Commission (FCC), and agreed upon a strategy to be followed by the U. S. Government. Implementation of this strategy had begun prior to the Office of Management and Budget's (OMB) calling of an interagency meeting to discuss this same problem. Similarly, while a number of Executive Branch agencies took divergent positions before the FCC on the question of local exchange access charges, these differences were thoroughly aired within the Administration during the course of consideration of S. 898 by the Senate. This debate, and the conclusion that consensus was impossible given differing agency perspectives, pre-dated the submission of comments to the FCC. Thereafter, OMB called meetings to attempt to reconcile these views.

Management Turnover

QUESTION:

How many management level employees, GS-15 and above, who were employed by NTIA in January, 1981, are still with the Administration? How many have left the agency? What has been the effect of this turnover?

ANSWER:

In January, 1981, there were thirty-two GS-15 and above managers. In January, 1983, there were nineteen GS-15 and above managers. Of the nineteen, four are new to NTIA, that is, were not on board in January, 1981. Also, five of the nineteen were on board in January, 1981 and were promoted to the GS-15 and above level between January, 1981 and January, 1983. Seventeen GS-15 and above managers have left NTIA since January, 1981. Nine of these seventeen positions were replaced by the four new managers and the five promoted managers. Additionally, there are five employees who were managers grade GS-15 and above in January, 1981 and are still with NTIA but not in a managerial capacity. Much of the turnover has been in those areas where NTIA has experienced program reductions. Therefore, the effects on NTIA have been minimal.

Public Telecommunications Facilities Program

QUESTION:

The Subcommittee would appreciate your preparing, for its use, a map of public radio signal coverage in the United States. In preparing such maps, NTIA should not use, in ascertaining public radio coverage, the following:

(1) non-duplicated cable carriage of distant public radio signals; and
(2) non-CPB qualified noncommercial radio stations with power over 100 watts (such as religious stations, training facilities, and student-run operations).

The Coverage map should reflect, in other words, actual public radio signal delivery via conventional distribution technologies. It could include stations currently under construction or authorized for operations by the FCC.

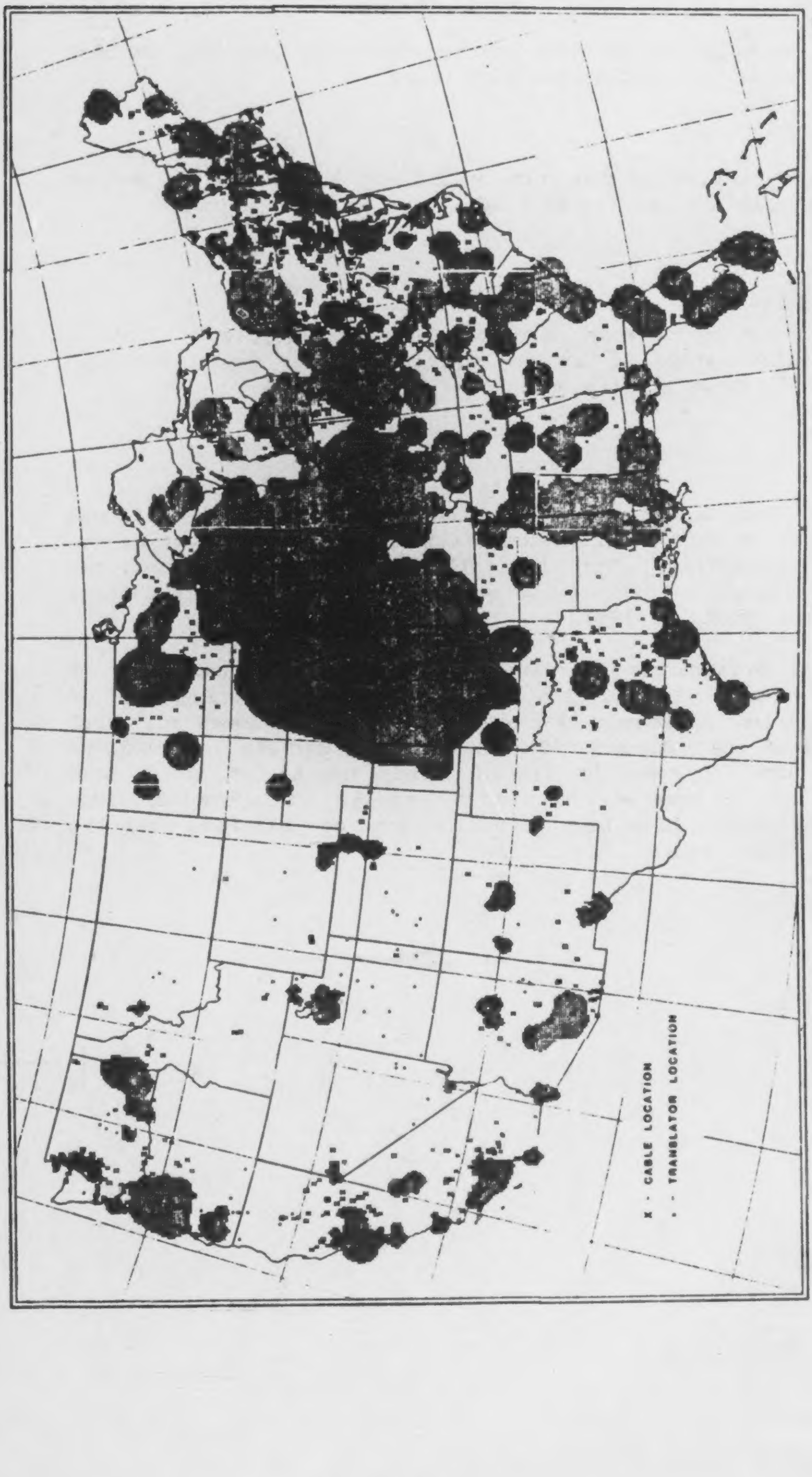
ANSWER:

NTIA has attached a copy of the public radio coverage map of the coterminous U.S. Please note the following characteristics:

- Over-the-air traditional public radio coverage is presented in gray.
- Cable systems are represented by X's and should be ignored for the subcommittee's purposes.
- We have never included (to the best of our knowledge) religious stations, training facilities and student run operations.

However, NTIA is in a serious dilemma. National Public Radio, the Public Broadcasting Service and the Corporation for Public

Broadcasting (CPB) want us to retain the Public Telecommunications Facilities Program (PTFP) to build public stations and yet they only want us to count CPB qualified stations. We cannot ignore stations which we fund and construct when presenting maps and statistics because they are part of the public broadcasting system. There are over 1175 Federal Communications Commission authorized noncommercial public radio stations, CPB only recognizes and qualifies 276, NTIA recognizes 359 public radio stations. We firmly believe our count of coverage and statistics is the most accurate reflection of the public radio system since it includes stations which have been built with PTFP grants via conventional over-the-air broadcasting.


X - CABLE LOCATION
• - TRANSLATOR LOCATION

PUBLIC RADIO COVERAGE IN THE UNITED STATES
(BASED ON FCC RECORDS EFFECTIVE AS OF AUGUST 1981)

QUESTION:

How many applications have you received this year for FY 1983 funds? How many do you expect next year?

ANSWER:

We have received approximately 350 applications. We do not expect any applications in FY 1984.

QUESTION:

The Public Broadcasting Service (PBS) has prepared a list of areas still unserved.* Can you explain why your Report mandated by PL 95-567 shows a different list?
*attached.

ANSWER:

The NTIA list was prepared in consultation with the National Association of Public Television Stations and the Corporation for Public Broadcasting. The list reflects those markets which can feasibly support a full service public TV station. It is current through the spring of 1982.

The Public Broadcasting Service (PBS) list upon perusual may be somewhat dated. In addition, they used Neilson ratings and we used Arbitron, consequently our ranking differs somewhat. PBS has combined stations under development with markets unserved, we have produced 2 separate lists. They count (or show) some markets as uncovered to which Public Telecommunications Facilities grants have been given to construct stations over the last few fiscal years.

Nielsen DMA's Without A Public Television Broadcast Station

RANK	MARKET	TV HH	% U.S. TV HH	Pop.	Cable TV % of TV HH
156	Abilene-Sweetwater, TX	109,990	.131	301,600	60
173	Ada-Ardmore, OK	67,170	.080	184,100	49
174	*Alexandria, LA	66,980	.080	200,400	49
121	Amarillo, TX	174,690	.209	480,000	58
149	Bakersfield, CA	129,360	.154	371,100	63
127	Beaumont-Port Arthur, TX/LA	162,960	.195	459,200	33
201	Bend, OR	26,170	.031	70,900	53
168	Billings, MT	73,400	.088	202,200	44
179	Butte, MT	62,390	.075	171,700	57
185	*Casper-Riverton, WY	57,500	.069	164,900	65
75	*Davenport-R. Isl.-Moline, IA/IL	324,180	.387	890,300	41
160	Dothan, AL	89,240	.107	260,500	41
122	*Ft. Myers-Naples, FL	174,160	.208	427,300	57
94	Ft. Wayne, IN	235,970	.282	666,400	36
205	Glendive, MT	5,580	.007	15,200	60
190	Grand Junction-Montrose, CO	52,630	.063	145,600	53
177	Great Falls, MT	65,110	.078	180,800	49
163	Hattiesburg-Laurel, MS	84,070	.100	248,600	39
124	Joplin-Pittsburgh, MO	172,850	.206	456,000	40
193	Lafayette, IN	42,400	.051	123,900	46
200	Laredo, TX	29,770	.036	115,000	68

* Under Development

Nielsen DMA's Without A Public Television Broadcast Station

RANK	MARKET	TV HH	% U.S. TV HH	Pop.	Cable TV % of TV HH
186	Mankato, MN	57,230	.068	168,400	51
172	Missoula, MT	68,330	.082	187,100	45
112	Monterey-Salinas, CA	185,550	.222	541,800	66
150	Odessa-Midland, TX	127,470	.152	364,600	64
192	Ottumwa-Kirksville, IA	44,340	.053	118,200	47
171	Panama City, FL	69,040	.082	191,100	43
183	Parkersburg, WV	58,570	.070	162,200	71
151	Quincy-Hannibal-Keokuk, MO	123,730	.148	334,700	39
129	*Reno, NV	158,620	.189	413,200	55
110	Rockford, IL	188,590	.225	520,300	49
195	San Angelo, TX	35,800	.043	99,200	71
118	Santa Barbara-Santa Maria-San Luis Obispo, CA	177,550	.212	479,900	75
180	St. Joseph, MO	61,230	.073	163,100	49
135	Traverse City-Cadillac, MI	152,840	.183	422,300	34
197	Twin Falls, ID	30,910	.037	89,100	51
158	Tyler, TX	94,500	.113	270,200	53
157	Utica, NY	97,880	.117	276,700	58
111	Wheeling-Steubenville, WV/OH	187,770	.224	519,800	60
181	Yuma-El Centro, AZ/CA	60,810	.073	196,700	64
198	Zanesville, OH	30,720	.037	85,200	61

* Under Development

Sources: Nielsen Station Index Directory 1982-83 and Nielsen TV Household (Jan. 1983) and Cable TV Household (July 1982) estimates

QUESTION:

Aren't the studies showing "reception" really just showing engineering projections, rather than a true report on what actual receiving conditions may be?

ANSWER:

Our Institute for Telecommunication Sciences data base has been carefully purged and refined in three areas. Our conterminous coverage maps take into consideration station contours, but we acknowledge in some instances they may be smoother than reality; our single station maps (not represented in the Plan) are replicas of station configurations which stations must certify to be accurate in their Federal Communications Commission (FCC) application; and finally the corresponding statistical and coverage figures are computer based using U.S. Census counts and FCC analysis records (we believe this combination reports numbers which are more accurate than a station reporting its own coverage figures might be.) The Plan statistically reports out conditions that closely approximate reception capability in the average home with a good antenna.

PATENT AND TRADEMARK OFFICE

Patent Examiner Staffing Level

Question:

You propose hiring 180 additional examiners in 1984 to continue the program to reduce the average time of patent application pendency to 18 months by 1987. This is in addition to hiring 480 new patent examiners and 7 appeal examiners requested in 1982 and 1983. Given the 4 years it takes for a new patent examiner to reach average productivity, how realistic is the 1987 goal?

Answer:

We feel that the goal is very realistic. While it is true that the learning curve of a new examiner spans four years, the most significant increases are in the first two years. Average production for the first two years is 57.0 and 68.0 units respectively; an increase of 19.3%. The rate of increase slows thereafter to 15.4% for the third and 11.3% for the fourth years. Our integrated six year plan takes into consideration the various levels of capability the new examiners will achieve each year. The patent examination process forms a pipeline of work flow from subject matter classification through examination to printing. Our plan balances our training capacity with our inventory levels to assure that we cause no "log jams" or waste resources. We are also working substantial overtime in FY 1983 and our FY 84 budget contemplates substantial overtime.

Length of Patent Pendency Period in 1984

Question:

You are requesting a sizeable increase in professional staff, support staff and patent printing in 1984. This is in addition to the increases requested for both 1982 and 1983, yet patent pendency will increase to 27.1 months in 1984. Why can't the patent pendency be maintained at the 1983 level of 26.6 months?

Answer:

The length of pendency reflects applications that were filed, on the average, two years previously. The 1984 period of pendency largely reflects the level of effort of 1981 and 1982 before our revitalization effort was underway. Pendency will cease to increase by the end of 1984 when we begin to dispose of more applications than we receive.

	Key Production Indicators			
	1981	1982	1983	1984
Applications Received	107,513	116,731	99,700	107,000
Disposals	88,245	83,583	98,500	108,900
Inventory Growth	+4,010	+25,983	+4,800	+300

Patent Application Decrease in 1983

Question:

The number of applications projected to be received in 1984 and 1983 are fewer than the number of applications received in 1982. What is the reason for this reduction? Have increased fees resulted in fewer applications?

Answer:

Applications during the last two months of FY 1982 reflected a substantial effort by many applicants to file before the new fees went into effect. We estimate that 9,700 applications that would normally have been received in the first two months of 1983 were filed in 1982 because of this. The impact of that "dump" of new applications is reflected in our revised workload estimate of 99,700 applications in 1983, a seven percent decrease from the estimate included in our 1983 request. This estimate assumes that we will recover 25 percent of the dump or approximately 2,400 applications through expanded workload. Actual data received to date indicates our estimate for the year will be correct. Our 1984 projection of 107,000 applications signifies a return to our baseline receipt level. We do not feel that increased fees will cause a reduction in total applications although some anticipated 1983 workload was displaced into 1982.

QUESTIONS SUBMITTED BY SENATOR STEVENS

Polar-Orbiter Weather Satellite System

QUESTION:

What is the impact on 3-5 day forecasts if we reduce the Polar-Orbiting Satellite System to one spacecraft?

ANSWER:

The 3- to 5-day forecasts will not be seriously effected by the change to a one polar-orbiting satellite. Lack of satellite data from data sparse areas will not reduce the accuracy greatly in the Northern Hemisphere, and probably less than 10 percent in the Southern Hemisphere.

QUESTION:

I understand DoD uses NOAA Polar Satellite Data for its worldwide weather forecasting. Will DoD long range global forecasts be seriously degraded if NOAA goes to a one polar satellite?

ANSWER:

The DoD long range global will not be seriously degraded. The DOD only relies on the NOAA Polar satellite system to back up and supplement its own DMSP spacecraft data set. With a successful DMSP programs, the DOD global data base will be available for their use in producing global forecasts.

QUESTION:

In late 1982, the Pacific geostationary satellite (GOES-West) "Died" prematurely. What are the negative effects of a combined downgrading of the polar-orbiting system and death of GOES-West? Should you reconsider your decision to cancel one of the two polar-orbiting satellites in light of the death of GOES-West?

ANSWER:

The premature failure of GOES-West in late 1982 significantly affected our ability to monitor weather conditions over the eastern Pacific. Since that time, GOES-1 has provided limited daylight coverage which has partially filled the data void. The polar orbiters NOAA 6 and NOAA 7, which are still operational, have combined to provide twice nightly coverage of the area and have supplemented the GOES-1 limited coverage. Forecast accuracy, though somewhat diminished, has not suffered seriously since major overnight changes have been seen in the polar satellite data.

Had we been limited to a single polar satellite during this period, forecast accuracy would likely have been reduced somewhat further though the extent of this degradation is impossible to estimate.

The decision to convert to a single polar satellite has not been changed as a result of the GOES failure. We fully expect future GOES satellites will meet their design goals which will assure continuity of data from East and West satellites. The GOES and Polar satellite programs are complementary in nature. The geostationary satellites primary mission are continuous coverage of the western hemisphere. They detect and track severe weather systems such as hurricanes and tornadoes. Sounding data, though currently only available experimentally, are of lesser quality than that available from the polar satellite which incorporates IR and microwave sounder instruments. The polar satellite's primary mission is provision of quantitative data from which atmospheric temperature profiles and sea surface temperatures can be determined.

QUESTION:

What is the difference in the quality of weather forecasts with two, one or zero polar-orbiting satellites? Can you answer this question? Before proposing elimination of part of the polar-orbiting system, wouldn't it be helpful for NOAA and Congress to know the answer to this question?

ANSWER:

Data from the two polar-orbiting satellites of our current configuration are used to fill data voids in the conventional observing network. Lack of data from otherwise data void areas will reduce the accuracy of the forecasts. It is not possible to quantify this reduction in accuracy other than to indicate that some forecasts will be affected because we lacked knowledge of the initial conditions upon which the forecast was based.

The two satellite system provides a global data base for input to the 00:00 and 12:00 Greenwich near real-time primary weather analyses. Reduction to a one satellite system will diminish Western Pacific long-range forecasts which rely on the global model. The one satellite system will continue to provide primary input (for the Eastern Pacific) to the limited fine mesh prediction model of the National Meteorological Center. This model provides the primary short range forecasts for the continental United States.

QUESTION:

What accounts for the poor record of recent Atlas launches (3 of the last 5 ATLAS launches have failed to achieve orbit)? Has the problem been corrected?

ANSWER:

The U.S.A.F. has conducted a series of in-depth analyses of conditions surrounding the recent ATLAS failures. It is our understanding that the failures essentially resulted from workmanship problems associated with use of 20-25 year old launch vehicles that had been stored under non-optimum conditions. To avoid problems of this nature in the future, all ATLAS engines will be subjected to careful scrutiny, partial rebuilding and "hot fire" testing prior to use. The latter test will provide confidence in the quality of the vehicle. The Air Force believes that latent defects have been located and that the vehicles will perform up to par in the future. NASA review team members tend to agree with the U.S.A.F

QUESTION:

If the single satellite failed in a single polar satellite system (due to launch failure or premature failure), is it true that our 3-5 day forecasts would be practically useless, and that severe storm warning times would be sharply reduced, or might not be forecast at all, in Hawaii, Alaska and Northern Boundary states?

ANSWER:

The forecast accuracy will be diminished but it is not reasonable to say that they will be practically useless without polar satellite data. Conventional data will continue to provide the basis for a reasonable analysis from which a 3-5 day forecast could be made.

QUESTIONS SUBMITTED BY SENATOR HATFIELD

CANADIAN TIMBER IMPORTS

QUESTION:

The Department's recent decision regarding Canadian timber imports is of major interest to both domestic timber harvesters and consumers. Would you please discuss the major issues presented in this case and detail the Department's opinion handed down last week? Would you please outline the remaining processes for this case which are available within the Department and the International Trade Commission?

ANSWER:

The preliminary determinations in our countervailing duty investigations of softwood lumber, shakes and shingles, and fence from Canada were made on March 7, 1983.

The major issue presented in these cases was whether the Canadian federal and provincial governments confer a subsidy on the products under investigation through "stumpage programs". These are programs by which the governments allow private firms to cut and remove standing timber from government lands in exchange for various in-kind and monetary payments by those private firms. Stumpage programs accounted for over 90 percent of the total subsidies alleged by petitioner.

We preliminarily determined that stumpage programs do not confer a subsidy on the products under investigation for a series of reasons. They do not confer an export subsidy since they do not operate and are not intended to stimulate export rather than domestic sales, and are not offered contingent upon export performance. They do not confer a countervailable domestic subsidy for two reasons. First, they are not provided to a "specific group of ... industries" within the meaning of the U.S. countervailing duty law, since they are nominally generally available and in fact are widely used by various groups of industries. Second, they do not confer a domestic subsidy within the meaning of the countervailing duty law. They do not provide a good (trees) at preferential rates within Canada, since standing timber appears to be available generally on equal terms. Nor do they "assume" a cost of producing softwood lumber, shakes and shingles, and fence.

The Department construed the term "assumption" to mean relief from pre-existing contractual or statutory obligations, which does not appear to have occurred in these cases. Even if it were more broadly construed to mean any effective reduction in costs of production, the Department preliminarily determined that Canadian prices for standing timber could not be justifiably compared with U.S. prices, as petitioner advocated. The reason is differences in quality and accessibility of timber in the U.S. and Canada, the common requirement in Canada (but not the U.S.) that those allowed to harvest timber perform forest management services for the governments, and the fact that in the U.S. much timber was bid at auction anywhere from two to five years in advance of use, without anticipating the subsequent decline in the housing and lumber markets. Finally, even if the term "assumption" were broadly construed and U.S. and Canadian prices were compared, evidence on the record of these investigations indicates that U.S. and Canadian prices do not vary significantly when adjusted to take into account the differences described above. For these reasons, the Department preliminarily determined that Canadian stumpage programs do not subsidize Canadian softwood lumber, shakes and shingles, and fence. Following announcement of our preliminary determinations, we met separately with petitioner, respondents, and the Government of Canada to disclose (in even more detail than that set forth in the 100 plus page Federal Register notice) the methods used in reaching our determinations. The next step is to verify in Canada any information upon which the Department relied or may rely in its final determinations. On April 14, there will be a public hearing in these investigations at the Department, preceded and followed by briefs submitted by interested parties. By May 23, the Department must reach final determinations. If negative, the investigations will be terminated. If affirmative, the International Trade Commission must then decide whether imports of these products are causing or threatening material injury to U.S. industries. If the ITC determinations are negative, the investigations will be terminated; if affirmative, countervailing duties would be imposed.

Both our preliminary and final determinations in countervailing duty and antidumping cases are made on the basis of the application of the laws to the facts of the case, without regard to other factors.

QUESTIONS SUBMITTED BY SENATOR HOLLINGS

Absorption of 1983 Pay Raises

QUESTION:

NOAA is being forced to absorb all but $2,000,000 of the fiscal 1983 pay raises; while the EDA, ITA, MBDA, Travel and Tourism Administration, and NTIA absorb all of their increased costs due to the pay raises. Meanwhile General Administration absorbs nothing.

What particular ability does NOAA, EDA, ITA, and USTTA have to absorb the impact of the pay raise?

ANSWER:

NOAA, EDA, ITA, NTIA, and USTTA are able to absorb the 1983 costs of the October 1982 pay raise because of higher than anticipated carryover balances from 1982 and/or lower than anticipated employment. All of these bureaus which are proposed for funding have adjustments in their 1984 budgets to fund the full year costs of the pay raise.

QUESTION:

In view of the Department's demonstrated pride in reducing appropriation levels, why can't GA show a little leadership and absorb some of these costs?

ANSWER:

The 1984 request for General Administration does demonstrate fiscal leadership and the Secretary's commitment to do more with less. At a level of $33,200,000, this budget now is 10 percent below the 1982 Carter level and supports 20 percent less positions. This budget is the product of over $4.0 million in budget reductions accomplished over the past 2 years. In spite of these reductions, the Office of the Secretary has still managed to implement management improvements that will save millions of dollars Departmentwide when fully operational.

Having already made these reductions, GA would have difficulty reducing further to accommodate the payraise. With over 68 percent of our costs devoted to payroll and an additional 25 percent necessary to cover the fixed expenses of standard level user charges (SLUC), telephone, postage and other billings (including the Working Capital Fund), little flexibility to reprogram and absorb exists. Any absorption may therefore require adverse personnel actions.

CONSOLIDATION OF ACTIVITIES

QUESTION:

Has the Department conformed to the directive in Senate Report 97-584 regarding the canceling of details to the Office of the Secretary in those areas proposed for consolidation that the Committee rejected?

ANSWER:

Yes, we have canceled those details.

SPECIAL FOREIGN CURRENCY PROGRAM

QUESTION:

It appears that the National Bureau of Standards is the primary user of the Special Foreign Currency Program. Instead of approving these funds to General Administration, wouldn't it be more efficient to make the appropriation directly to NBS?

ANSWER:

No, it would not be more efficient to make the appropriation directly to NBS.

At the request of the Administration, the Congress approved the merger of the individual Special Foreign Currency (SFC) accounts of the Department of Commerce in 1974. This move improved the management of SFC by: simplifying and consolidating accounting procedures; instituting a first come, first served policy whereby available balances could be effectively used; and providing flexibility to respond to currency restrictions which hindered the ability to obligate funds.

USTTA Financial Policy Functions

QUESTION:

Please explain the statement on p. 29 of the Department's Budget in Brief that USTTA's financial policy functions are being shifted to General Administration, since there is no mention of this in the justification. Is the result of this shift the uninformative justification for USTTA which provides little insight into the impact of the $2,743,000 decrease budgeted for 1984?

ANSWER:

The shift of financial policy functions to General Administration is a shift in source of funding only. It is part of the Departmentwide realignment reprogramming submitted to the Congress on January 3, 1983. Without the realignment, USTTA would continue to be billed for financial policy functions performed by General Administration through the Working Capital Fund. Financial policy has been identified as one of the areas that is more appropriately funded through the General Administration Salaries and Expenses appropriation. All budgets for bureaus in the Department of Commerce have been adjusted to reflect this shift of financial policy. In USTTA, this was the only function affected by the realignment. No Commerce bureau will be billed for financial policy activities. Related personnel will remain in General Administration, but they will be paid from the Salaries and Expenses appropriation, instead of the Working Capital Fund. A complete discussion of the proposed FY 1984 program decrease for USTTA is contained in the annual marketing plan submitted to Congress on March 14, 1983.

ECONOMIC DEVELOPMENT ADMINISTRATION

Loan Guarantee Program

QUESTION:

On February 9th, we sent a letter to Assistant Secretary Campbell

INTERNATIONAL TRADE ADMINISTRATION

KNOXVILLE EXPOSITION

QUESTION:

What is the outlook for the Federal Government recovering the $12,800,000 cost of the U.S. Pavilion at Knoxville?

ANSWER:

The U.S. Pavilion at Knoxville has been turned over to the General Services Administration (GSA) for disposal. GSA is advertising the building in local newspapers and other media and is showing it to prospective bidders through local realtors. Opening of sealed bids is scheduled for early summer.

LOUISIANA EXPOSITION

QUESTION:

What is the current status of the U.S. participation in the 1984 fair at New Orleans, and will there be any difficulty in staying within the $10,000,000 appropriated for our participation in the fair?

ANSWER:

The Department of Commerce is working closely with the Louisiana organizers to finalize the design of the Pavilion shell. The Pavilion is being given to the Government by the organizers at no cost. Construction is scheduled to begin in April. A final conceptual design of U.S. Pavilion exhibits will be ready in a few weeks. Half of the U.S. Pavilion staff has been selected and is on board.

We anticipate no difficulty in staying within the $10,000,000 appropriated for U.S. participation in the fair.

BEIJING TRADE FAIR

QUESTION:

Congress included $3,000,000 for the U.S. participation in the International Trade Fair in Beijing, China. What use is planned for those funds and will the $3,000,000 cover the total U.S. participation in that Fair?

ANSWER:

We have hired a project director and are negotiating for architectural ~~and~~ engineering plans for the site. Most of the financing will come from private corporations. The Federal government's share of $3 million will be used as seed money. Private sector contributions ($20-25 million) will support the fair's operation. The fair will open on June 15, 1984. The purpose of the trade fair is to improve relations between China and the U.S. in the spirit of 1979 Sino-American Cultural Agreement. The theme is American accomplishments in science, technology and culture. The trade fair will occupy 450,000 square feet and will accommodate 60,000 visitors per day.

LAW ENFORCEMENT VEHICLES

Language is requested in the 1983 Supplemental request to allow for the purchase of "specially equipped law enforcement vehicles."

QUESTION:

What type of activity is planned in the Export Administration Program that requires these types of vehicles?

ANSWER:

These vehicles are requested in Export Enforcement and will be used for the following types of activity:

- Surveillance of targets under investigations being conducted pursuant to the Export Administration Act.
- Rapid response to interdict controlled goods being exported in violation of the Act.
- Transportation use by special agents in connection with their conduct of investigations and responses to calls-for-assistance from business sector regarding private sector compliance with the Act.
- Support to other agencies including Customs, FBI and the Justice Department in interagency enforcement endeavors undertaken pursuant to the Act.
- Transportation of Commerce Special Agents in enforcement activities, i.e., search and seizure operations, conveyance of evidence, transportation of suspects.

QUESTION:

Please give some examples of opportunities that have been lost because such vehicles were not available?

ANSWER:

These vehicles are necessary equipment to any force of criminal investigators. It is impossible to conduct field investigations in their absence. We have no examples of perpetrators who avoided surveillance and/or prosecution due to the lack of such vehicles because the Office of Export Enforcement has only recently begun large scale field investigations. These efforts are one aspect of the Administration's determination to deal firmly with illegal technology transfers.

ITA LAW ENFORCEMENT OFFICIALS

QUESTION:

How many ITA personnel are considered "law enforcement officials"? Are they sworn officers, and do they carry weapons?

Deferral

QUESTION:

S. Res. 49, which I introduced on February 3rd, to disapprove the deferral of $181,900,000 of EDA's program funds, now has 51 cosponsors. The Committee on Appropriations favorably reported S. Res. 49 on March 7th after 10 of the 11 members of the Subcommittee favorably responded to a poll by our Chairman. The House Appropriations Committee has also reported a disapproval resolution so that it is virtually certain that the deferral will be overturned. In that event, does EDA have a standby program to get back in business and assist in getting America back to work?

ANSWER:

We will be able to implement the full year program level of $198.5 million in FY 1983.

Sale of Loans

QUESTION:

According to the Department's Budget in Brief, last year's loan portfolio sale "demonstrated the feasibility of improving Federal Government debt collection efforts." That certainly is true if "feasible" means recovering an average of less than 17 cents on the dollar.

From the reports we received, the loan sale resulted in third party investors, sometimes referred to as "Ambulance chasers" bidding on the loans offered, then threatening companies with liquidation in order to obtain a quick profit. In one case, a $243,000 note was sold to a third party for $30,000 who then sold the note to the borrower for $75,000 plus $5,000 in merchandise, all within approximately three weeks time. The result, the government got $30,000 or approximately 12 cents on the dollar, the investor made $55,000 clear profit and the company came out $158,000 ahead. The clear loser, the Federal Government.

Congress reacted to those reports by providing in the Continuing Resolution that no further loans could be sold except with the consent of the borrower.

Does EDA plan to sell any additional loans?

ANSWER:

EDA is presently considering disposition of defaulted business loans. Final plans have not been completed. Any sale would be conducted in compliance with the requirements of law set forth in the Second Continuing Resolution.

with regard to the loan guarantee program. Why has there been no response to that letter?

ANSWER:

We responded on March 18. A delay was necessary because of the need to clarify the position on the loan guarantee program for FY 1983. We have concluded that the Agency is required to operate a loan guarantee program and we will do so.

Project Approval During the First Continuing Resolution

QUESTION:

In approving the Continuing Resolution the Report of the Appropriations Committee noted the concern that EDA not delay the commitment of funds during the period the agency was covered by the Resolution. In a subsequent meeting with congressional staff, it was agreed that EDA approval of projects -- instead of actual obligation -- would satisfy the intention of the Committee. It now appears that there was not a good faith effort by the Administration to carry out this direction. How much of the $43,970,000 apportioned for EDA's programs between October 1 and December 17, 1982 was approved for projects?

ANSWER:

No projects were approved prior to December 17. For the Planning Program, a Notice was published in the Federal Register on November 23, 1982, announcing the availability to the Economic Development Administration of $5.677 million, as of October 29, 1982, for the continuation of existing planning programs among Economic Development Districts, Redevelopment Areas, Indian Tribes, Cities, Urban Counties, and States. On November 19, Regional and Headquarters staff began to elicit the necessary applications from all existing and eligible Planning grantees, in order to commit the program funds. The first projects for approval actions were received in Washington on December 10, 1982. By February 1983, 90 percent of all approval actions had been accomplished.

For the Technical Assistance program, a Notice was published in the Federal Register on November 23, 1982, announcing the availability to the Economic Development Administration of $1,748,000, as of October 29, 1982, for continuation of existing University Center programs and other projects emphasizing public/private sector approaches to address issues of productivity growth and technology transfer, export development, and adjustment to structural economic change. On November 24, 1982, Regional and Headquarters staff began to elicit all necessary applications from existing and eligible University Center grantees. The first projects for approval actions were received in Washington on December 11, 1982. By February 1983, all university center approval actions had been accomplished.

For public works, EDA had authorized more than $30 million in applications by December 17.

ANSWER:

The 44 criminal investigators assigned to the Office of Export Enforcement are law enforcement personnel capable of conducting full field criminal investigations. These personnel either came to OEE from other federal law enforcement agencies where they received professional training or they have been sent by Commerce to the Federal Law Enforcement Training Center at Glynco for necessary training. These personnel take the same oath of office as is administered to all employees of the Executive Branch; they are not specially sworn.

They are not yet authorized to carry firearms. However, we have requested this authority in our current legislative package.

TRADE ADJUSTMENT ASSISTANCE

QUESTION:

Approximately one year after the Reagan Administration took office, this program was transferred from EDA to the ITA. Since that time, what actions have been taken by the agency to provide for the successful administration of this program?

ANSWER:

Since Trade Adjustment Assistance was transferred from EDA to ITA the following actions were taken to provide better administration of the program:

- Centralization of review and approval actions for technical and financial assistance in Washington. This action has improved the responsiveness and consistency of trade adjustment assistance provided to Trade Act certified firms. Prior to July 1982 the EDA Regional Offices played a major role in the review and approval of firm assistance activities. The Regional Offices did not act consistently.

- Establishment of a centralized adjustment plan review process. This has led to an improvement in trade adjustment assistance services and is anticipated to result in a higher percentage of assisted firms which will accomplish a business turnaround. The Adjustment Plan Review Committee has been far more responsive in terms of timeliness of feedback concerning the decisions than were the EDA Regional Offices.

- Certification of better balanced spectrum of industries than in earlier years.

- Tightening of lending policies.

- Application of new procedures for suspending delivery of trade adjustment assistance benefits to firms suspected of being certified on the basis of incomplete, false, or misleading information.

QUESTION:

If the program is terminated, how many firms and industries would be affected and what other programs or monies would be available to help them?

ANSWER:

The average number of firms in the process of receiving trade adjustment technical assistance at any time is approximately 500-750. We also estimate that 300-500 additional firms receive trade adjustment technical assistance annually. We estimate that 800-1,250 firms would be affected.

In general, the pipeline for industry assistance projects contains 15-20 projects. Therefore program termination would result in 15-20 industries being affected.

Other federal programs capable of providing loans to trade-injured firms include SBA, EDA, and Farmers Home Administration, State and local government loan programs are also available in some locations.

QUESTION:

What were the numbers and dollars in loans and loan guarantees prior to the movement of OTAA to ITA and what has been the history since the transfer to ITA?

ANSWER:

Loans and loan guarantees prior to and since movement to ITA are summarized as follows:

	Prior ITA or EDA by FY	No. of Firms Approved by FY	Total $ Approved (Gty. Face Amt.) ($ in millions)
(EDA)	FY 76 & TQ	11	$13.4
	77	17	17.8
	78	69	74.5
	79	82	94.2
	80	67	71.3
	81	49	49.8
		295	$321.0
(ITA)	FY 82	12	$19.3
	83	1	.6
		13	$19.9

QUESTION:

What is the number of workers in firms and industries who have been assisted under this program?

ANSWER:

In FY 1982 and 1983 to date, 16 firms have been approved for financial assistance involving approximately 6,062 jobs.

From 1976 to present, at the time of approval of the 311 firms assisted under the Trade Act of 1974 (as amended), an estimated 85,544 jobs were effected by the financial assistance program.

QUESTION:

What proportion of the firms assisted under the program are still in business?

ANSWER:

Of the 311 firms approved for financial assistance, 87 firms or 28 percent are not operating.

QUESTION:

What proportion of the firms have been assisted under the program have applied for Trade Act Loans?

ANSWER:

Since the transfer of the trade adjustment program from EDA to ITA between 600 and 800 firms have received or are receiving trade adjustment technical assistance. Of these firms OTAA has accepted a total of 131 adjustment plans which involve trade adjustment financial assistance. To date OTAA has received a total of 53 applications for financial assistance totalling approximately $64.8 million. The breakdown of the status of these applications is as follows:

	No. of Firms	Dollars in Millions
Approved to date	13	$19.9
Denied to date	8	6.8
Withdrawn to date	10	14.4
Pending Actions	22	23.7
TOTAL	53	$64.8

QUESTION:

What industries are currently participating or intend to participate in developing plans to combat imports?

ANSWER:

Under the trade adjustment program the following 23 industries have received trade adjustment assistance to combat imports.

-Footwear
-Apparel
-Textiles
-Handbags
-Earthenware
-Vitreous China
-Mushrooms
-Cutlery
-Textile Machinery
-Shrimp
-Pipe Fittings
-Sporting Goods
-Jewelery
-Consumer Electronics
-Industrial Fasteners
-Steel
-Stainless Steel Flatware
-Shakes and Shingles
-Work Gloves
-Handmade Glass
-Paper Machinery
-Luggage & Leather
-Loudspeakers

Trade Adjustment Assistance is still on-going for the following eight industries: footwear, apparel, textiles, workgloves, shrimp, loudspeakers, sporting goods and luggage.

Additional industries that have requested or that have informed us of their intent to request trade adjustment industry assistance include: hand tools; textile machinery; food processing machinery; packaging machinery; pulp and paper machinery; wire machinery; machine tools, tooling and machining; metal casting; leather goods; woolgrowers; motorcycles; gear manufacturers; and onion farmers.

QUESTION:

What is the current status of the revolving OTAA loan fund and what use has ITA made of the fund to expand the availability of funds to firms and industries?

ANSWER:

No revolving loan fund is maintained; rather, funds are obligated to be held in reserve in case of default. This approach is required under the 1974 Trade Act. Reserves of $6,293 thousand are maintained against a contingent liability of $15,086 thousand.

QUESTION:

Should the Congress decide to refund the Trade Adjustment Assistance Program, what do you consider the proper new initiatives where this money can be spent?

ANSWER:

If the Trade Adjustment Assistance program continues, the Department will provide trade adjustment firm and industry assistance to a broader array of industries that have been recently affected by increases in imports.

1982 ITA UNOBLIGATED BALANCE

QUESTION:

On February 12, 1983, the Department transmitted a request to reprogram the $9,600,000 unobligated balance that ITA brought forward from fiscal 1982. While the majority of this large balance relates to the Trade Adjustment Assistance program, a substantial part was due to "higher than anticipated vacancy levels."

The Appendix to the Budget indicates that 145 of ITA's 2,316 permanent positions were vacant as of last September 30th. Did these vacancies come about by design or accident, as they don't seem to match the Administration's rhetoric about their efforts in both Trade Development or Administration?

ANSWER:

These vacancies are the result of delays (locating highly qualified applicants, obtaining pre-employment clearances, etc.) associated with hiring highly qualified employees throughout ITA. They don't result from lessening of the Administration's strong support for Trade Development and Trade Administration programs.

QUESTION:

How many of the vacancies were in the U.S. and Foreign Commercial Services?

ANSWER:

On September 30, 1982, the U.S. and Foreign Commercial Services had 66 vacancies.

QUESTION:

How many of the 1,160 US/FCS positions are now filled and what are the plans for filling the remainder?

ANSWER:

As of March 1, 1983, 15 of 177 overseas officer positions were unfilled. Of these 15, officers were assigned to or in training for five of the positions.

We are now completing the second assessment cycle for recruitment of new officers. Using this new group of career candidates, we will fill the remaining ten positions by mid summer.

Delays in clearances and the time required for training may mean that officers will not arrive at post for several months. However, following the third recruitment cycle this summer we will be at full strength in our overseas complement and will no longer experience the delays in filling positions which were caused by bringing a new service up to full staffing levels.

For the U.S. Commercial Service (District Offices), as of March 1, 1983, 48 of 378 positions were unfilled. Of these 48, recruitment actions have been submitted for 41 of the vacancies. Delays in filling these positions have occurred because of lengthy pre-employment clearances.

QUESTION:

There was also $836,000 unobligated in the Textile Import Management System project. What are the specific plans for the use of these funds?

ANSWER:

Specific plans have been developed for expenditure of these funds for the Textile Information Management System (TIMS). Expenditures are planned on data base development ($248,000), services ($395,000), training ($35,000), additional equipment ($144,000), and related requirements ($14,000). An estimated $301,000 of the $836,000 carryover has been committed by the end of February.

QUESTION:

Among the 1982 unobligated balances was $300,000 for the FCS facility in Beijing, PRC? We have also appropriated $3,000,000 for the U.S. participation in the International Trade Fair in Beijing.

Could the facilities for the Trade Fair be used by the FCS and thereby obviating the need for the $300,000?

ANSWER:

The FCS building in Beijing will serve as a multipurpose office/ reception facility. This is different from the Beijing trade fair structure.

After months of intensive negotiation dating from FY 1981, the Chinese agreed in FY 1982 to allow construction of a modest two story FCS office building in a corner of the former Pakistani Compound. The building will contain a library, two small meeting rooms, a reception area, and offices for the four American officers, one American secretary, and several Chinese nationals working for FCS Beijing. The total area will be just over 2000 square feet and will not contain exhibit or display space.

The FCS building will be located directly adjacent to the new U.S. Chancery and related office buildings. It will be conveniently located for American visitors. In addition, the Chinese have agreed to allow a separate entrance to the building from the street. This will obviate extensive security checks and enhance access to the building by Chinese visitors.

In contrast to the location and purpose of the FCS building, major Chinese fairs are held at sites selected by the Chinese. These sites are not available for use by the U.S. Government on a year-round basis and are located at some distance from the downtown business area. In fact, the $3,000,000 trade fair exhibit will be located some twenty minutes from downtown Beijing.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Western Regional Center

QUESTION:

It is proposed to rescind $2,000,000 of the funds previously appropriated for the construction of a Western Regional Center at Sand Point in Seattle, Washington. Another $2,000,000 of these funds are proposed for transfer to partially offset NOAA's increased pay costs.

What is the current status of the construction of the Western Regional Center?

ANSWER:

Construction is progressing and will be completed in 1984.

QUESTION:

Did the savings of $4,000,000 in the Construction account arise from lower costs than anticipated or curtailments in the facilities to be constructed. If the latter, please explain what aspects of the project are being eliminated.

ANSWER:

This underrun is a result of an unanticipated extremely favorable (from the owner's standpoint) construction market during the past two years and careful control of construction change orders. At this point in project development, we estimate total project costs will be $62,300,000, or approximately $4,000,000 less than the available amount ($66,470,000). Four million dollars can be withdrawn without adversely affecting project completion and closeout in FY 1984.

NOAA Weather Radio

QUESTION:

Senate Report 97-584 directed that $12,800 be redirected to provide NOAA weather radio service in Hickory County, Missouri. What is the current status of that project?

ANSWER:

The equipment will be installed and operational by the end of the first quarter of FY 1984. In FY 1983, prior to the installation of equipment, site survey and licensing activities will be taking place.

Reception for Congress

QUESTION:

In February 1983, NOAA sponsored a reception honoring the members of the 98th Congress. How much did the reception cost and what was the source of funds?

ANSWER:

The cost of the reception was $450. The source of the funds was the Gifts and Bequests Fund. (This gift fund is comprised of permanently-appropriated, non-taxpayer dollars. The principal source is honoraria.)

QUESTION:

How many members of Congress attended the reception?

ANSWER:

We do not know. However, of the 210 invited, 72 members of Congress and committee staff indicated they would attend.

QUESTION:

What was the total attendance at the reception and how many of those attending were NOAA officials?

ANSWER:

Total attendance was 65. Of that number, 17 were NOAA officials and 4 were Department of Commerce officials.

Toxicity Research

Senate Report 97-584 directed that $350,000 be allocated to initiate a 3-year effort of additional research on combustion toxicity.

QUESTION:

What is the current status of this research?

ANSWER:

NBS has agreed to work statements with prospective grantees for nearly all this year's funds. The paper work is under way to provide the funds to the grantees. The bulk of the funding (about $250,000) will go to Southwest Research Institute of San Antonio, Texas. The work is designed to apportion, quantitatively, the amount of hazard arising in a fire to the toxic effects of smoke as opposed to the effects of heat and vision obscuration from smoke. The Center for Fire Research is currently working with such organizations as the American Iron and Steel Institute, the Man-made Fibers Manufacturers Association, and the Society of Plastics Industries in conducting this research.

QUESTION:

Why are no funds budgeted for the second year of this research program in the 1984 request?

ANSWER:

The NBS fiscal year 1984 budget request proposes that all STRS funds for the Fire Research program be eliminated, including all funds earmarked for research on combustion toxicity. Without the Center for Fire Research, NBS would lack the capability of operating this research program.

Center for Fire Research

QUESTION:

Would you describe for us research the Center has undertaken or planned relating to the flammability of home furnishings? How frequently are furnishings a factor in home fires? What would be your best guess about the value of this research?

ANSWER:

In 1981 approximately 7,600 civilian fire deaths occurred in the United States. Of these, approximately 6,090 or 80 percent occurred in residential occupancies. A much larger number of citizens sustained serious injuries in fires. Direct property loss in residential fires was estimated to be about three billion dollars (Fire Loss in the United States During 1981, Fire Journal, Sept. 1982, p.3).

Very early in the Flammable Fabrics Program, NBS identified the smoldering ignition of mattresses and upholstered furniture as causing 27 percent of fire deaths and injuries, by far the largest single causes. A cigarette ignition test for mattresses was developed and a mandatory standard was promulgated (Standard for the Flammability of Mattresses, FF 4-72). A similar ignition test method was developed for the more complex case of upholstered furniture, but with the transfer of responsibility for the Flammable Fabrics Act to the Consumer Product Safety Commission (CPSC) the test method was turned over to the Commission for further development of a standard. Since then (1976), the Center for Fire Research (CFR) at NBS continued to provide technical support to the CPSC in its effort to work with the furniture industry to develop a voluntary ignition standard (NBSIR 78-1438, Back-Up Report for the Proposed Standard for the Flammability (Cigarette Ignition Resistance) of Upholstered Furniture, PFF 6-76).

Also, under the Flammable Fabrics Act, test methods and standards for the ignition resistance of carpets and rugs were developed and promulgated (Standard for the Surface Flammability of Carpets and Rugs, FF 1-70). Several disastrous fires showed that while these standards were effective in eliminating floor coverings as a primary source of fires, carpets could still contribute to the hazard of a developing fire by providing a path for rapid fire spread through corridors, stairwells, and exit ways. This problem was investigated in cooperation with the carpet and rug industry in a series of full scale corridor fire tests and a test method, the Flooring Radiation Panel Test (National Fire Protection Association (NFPA) 253; ASTM E648). Test for Critical Radiant Flux of Floor Covering Systems Using a Radiant Heat Energy Source, was developed to deal with this situation. This test method has been adopted into standards by government agencies and local jurisdictions to control the hazard of floor coverings in special hazard situations.

While smoldering ignition from smoking materials is the largest source of fire casualties from mattresses and upholstered furniture, it is recognized that even though these furnishings may be made resistant to small ignition sources, they can still burn rapidly, producing high temperatures and large volumes of combustion products when exposed to a larger flaming ignition source. A program was initiated in CFR to study this problem and devise methods of controlling it. The flame resistance of mattresses was investigated first and test methods and purchase specifications for flame-resistant mattresses for institutional use were developed (NBSIR 81-2186, Combustion of Mattresses Exposed to Flaming Ignition Sources).

The response of upholstered furniture to open flame is under active investigation at the present time. A laboratory test method for characterizing the burning rate and evolution of heat, smoke, and gas from materials used in furnishings has been developed and is now under consideration by the American Society for Testing and Materials (ASTM) (NBSIR 82-2611, Development of the Cone Calorimeter -- A Bench-Scale Heat Release Rate Apparatus Based on Oxygen Consumption). An apparatus has been developed which permits the full-scale burning of an upholstered chair or sofa while recording the rate of burning and the energy output from the fire (NBSIR 82-2604, Upholstered Furniture Heat Release Rates Measured with a Furniture Calorimeter). Finally, a full-scale room fire test in which entire ensembles of furniture and/or furnishing could be tested, also under consideration by ASTM, is under development (NBSGCR 83-421, Intralaboratory Evaluation of a Room Fire Test Method). The availability of these methods of characterizing the fire performance of building furnishings should lead to significant advances in developing standards needed to control this hazard.

It is not possible to make an accurate prediction of the value of this research on home furnishings, but fire death and injury rates have shown a gradual decline in recent years. The NBS program has demonstrated the potential savings in both lives and property that are possible by understanding the behavior of furniture materials in a fire. With continued research by the private sector and implementation of the results, we can expect this trend to continue and a potential saving of one or two thousand lives, several thousand injuries, and hundreds of millions of dollars in direct property loss each year is a reasonable expectation. Further savings in the indirect cost of fire can also be anticipated.

QUESTION:

We understand the Center has prepared a proposed standard that will be helpful to arson investigators who suspect a petroleum product has been used to ignite a fire. Tell us about the standard and its likely usefulness.

ANSWER:

The Center for Fire Research has initiated a program to develop a standard test method for the detection of liquid accelerants that may have been used to initiate arson fires. As a first step, we enlisted the cooperation of a large number of forensic laboratories to conduct an interlaboratory evaluation of the test methods they were currently using. The results of this study raised some questions about the reliability of some of the methods currently in use. The next step involves working to correct the problems which have been found and to draft a standard test procedure. This will again be evaluated thoroughly in a number of laboratories and when an acceptable level of accuracy and reliability has been demonstrated, the procedure will be submitted to the NFPA Committee on Fire Investigations for adoption as a voluntary standard. It would then be available to law enforcement agencies throughout the country to use in their investigations. The availability of a standard test method whose reliability has been demonstrated by objective interlaboratory evaluation should be a great advantage to law enforcement agencies in prosecuting arson cases.

QUESTION:

Woodstoves have become increasingly popular. Has the Center conducted any research into the fire losses attributable to these stoves?

ANSWER:

A significant increase in fatal fires due to heating appliances was noted in recent years. The Center for Fire Research undertook a detailed analysis of fire data from twelve states and showed that an excessive number of fire deaths from this cause were occurring in Maine, Alaska, and the rural south (NBSIR 82-2519, Rural and Non-Rural Civilian Residential Fire Fatalities in Twelve States). Improper installation and maintenance of wood burning heating appliances was identified as the major problem. In cooperation with the Department of Energy and CPSC, CFR undertook a study of this problem. Improved methods for the safe installation and operation of such equipment were developed (NBSIR 82-2506), Evaluation of Wall Protection Systems for Wood Heating Appliances) and introduced into NFPA Standard 211, Standard on Chimneys, Fireplaces, and Solid Fuel Burning Appliances. We expect this improved standard to be adopted as a voluntary standard by the NFPA in 1983 when it will become available for incorporation into local building codes throughout this country.

QUESTION:

We understand the Center has created computer models of fire development. Would you describe how your computer capability is helpful in preparing these data and the practical application of the results? Is it possible to attach a dollar amount to the value of this work?

ANSWER:

The prediction of the course of development of a fire, given the initial conditions, is a central problem in fire safety. If such predictions can be made, then the effects of safety features such as design changes, changes in materials, detection and suppression systems, and intervention strategies can be examined. Until recently, the only reliable way to predict the behavior of a fire was to carry out a full scale fire test of the system under investigation. Such tests are extremely costly and time consuming and provide information only on the particular system and circumstances under test. Recently, substantial progress has been made in developing mathematical models of fire development based on well established physical laws and the properties of materials that can be measured in simple laboratory tests. We are now able to make reasonable predictions of the effects of many proposed changes in a fire system by rapid and inexpensive computational methods. With further development, it would be possible to predict the performance of entire buildings in the event of fire and to examine the consequences of design changes in order to reach the most cost effective solutions to fire safety problems.

The field of fire protection engineering, which is now heavily dependent on the subjective judgment of experienced professionals, can be placed on a sound technical basis compared to that now found in other engineering disciplines. The costs of fire prevention features in building construction amounts to several billion dollars a year. The optimization of fire safety design through the use of fire modeling should make significant savings possible, as has already been demonstrated in improving the fire safety of health care facilities. Some fire experts believe these costs could be reduced 50 percent or so.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

Public Telecommunications Facilities Program

QUESTION:

I have received a letter from Frank Mankiewicz, President of National Public Radio, that I will insert in the record. This letter concerns the Public Telecommunications Facilities Program. In 1981 we worked with the Administration to scale this program back by 33% over 3 years; however, no funds are budgeted for fiscal 1984.

If it is correct that public radio signals currently reach only slightly over 70% of the American people, how does the Administration plan to extend public radio to the balance of the Nation?

ANSWER:

Public radio signals can be received by 75% of the American people. NTIA's Facilities Plan indicates it may be possible to create 51 new full-service public radio stations and 77 translators. However, even with our efforts it may not be practical to achieve that goal for several reasons:

- Our planned outreach efforts last year to solicit public radio full-service applications only brought in 29 radio construction requests.
- Not all communities on the unserved list have sufficient interest or a sufficient funding base to support a public radio station.
- Public radio development is unlikely to be as efficient in reaching maximum population as our projects propose.
- The Corporation for Public Broadcasting and NTIA concur that spectrum space for new channels is a major obstacle and that modifying the FM Table of Assignments is essential if public radio is to be expanded beyond 81% of the population; this can only be done by the Federal Communications Commission.

QUESTION:

Has the Administration any doubts that the unserved areas are not able to provide the necessary matching funds to the authorized $12,000,000 appropriation for fiscal 1984?

ANSWER:

Last year we had some grants for originating stations which entered preliminary negotiations, but were not funded because of an inability to obtain the 25% match required by law. Those new unserved areas had escalated per-person costs (as high as $75 in remote rural areas) due to smaller population bases and the high cost of constructing a station. All applications to extend existing service of originating stations via translators or transmitters had no problem obtaining matches.

Last year we received only 56 requests to build public TV or radio stations in unserved areas out of 356 applications. We do not anticipate the number of requests increasing in any future year due to the costs associated with constructing and maintaining the facility. Last year, funding all qualified requests for new stations in unserved areas totalled only $6,600,000.

It should be noted many of these will never have the required resources (or in some cases interest) to become Corporation for Public Broadcasting-qualified or to become National Public Radio or Public Broadcasting Service station members.

February 24, 1983

The Honorable Ernest Hollings
United States Senate
Washington, D. C. 20510

Dear Senator Hollings:

In the near future, your Subcommittee on State, Justice, Commerce Appropriations will review the Administration's proposal to terminate the Public Telecommunications Facilities Program in FY 1984. It is my hope the Subcommittee will decide to continue the program at the fully authorized level of $12 million.

The PTFP program is essential to complete the building of the nation's public radio and television system. Extension of public broadcasting signals to unserved areas is the highest priority of the PTFP program. For radio, this is a particularly critical concern. Public radio signals currently reach only slightly over 70% of the American people. PTFP funds are indispensable to our continued growth and the strengthening of our support from the audiences we wish to serve.

The authorizations and appropriations for the program have been fully responsive to the congressional mandate to limit federal expenditures. The 1981 Public Broadcasting Act Amendments authorized $18 million for FY 1982, $15 million for FY 1983, and $12 million for FY 1984 -- a 33% reduction over three years.

We are greatly appreciative that Congress understood the needs we face and approved full funding of PTFP for FY 1982 and 1983. The program is cost-effective and, as it depends on matching funds generated locally, is directed toward areas actively seeking new public broadcasting services. National Public Radio would very much welcome the Subcommittee's continued support for PTFP in FY 1984.

Please accept my thanks for your consideration of NPR's interest and concern. I would be pleased to provide further information or answer any questions you might have.

With kind regards, I am

Sincerely,

Frank Mankiewicz
President

SUBCOMMITTEE RECESS

The subcommittee will recess until 9:30, Wednesday, March 16. We will meet in this room and hear the testimony on appropriations of the U.S. Trade Representative, SEC, and the Arms Control Disarmament Agency. It should be an interesting session.

[Whereupon, at 10:40 a.m., Thursday, March 10, the subcommittee was recessed, to reconvene Wednesday, March 16, 1983.]

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1984

WEDNESDAY, MARCH 16, 1983

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 9:33 a.m., in room S–146, the Capitol, Hon. Paul Laxalt (chairman) presiding.

Present: Senators Laxalt and Specter.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF THE U.S. TRADE REPRESENTATIVE

STATEMENT OF HON. WILLIAM E. BROCK, U.S. TRADE REPRESENTATIVE

ACCOMPANIED BY:

- **DENNIS WHITFIELD, ASSISTANT U.S. TRADE REPRESENTATIVE**
- **JOHN P. GIACOMINI, DIRECTOR, OFFICE OF MANAGEMENT**
- **WILLIAM MARONI, DIRECTOR OF CONGRESSIONAL RELATIONS**

BUDGET REQUEST

Senator LAXALT. The subcommittee will come to order.

Our first witness this morning is Ambassador William E. Brock, the U.S. Trade Representative. The request of the Office of the U.S. Trade Representative is $11,647,000, which represents an increase of $1,138,000 over the fiscal year 1983 base level.

Mr. Ambassador, we are very pleased to have you with us today. On behalf of not only myself but members of the subcommittee I want to commend you for the fine work you have done this past year, particularly your leadership in the Caribbean Basin Initiative. Your commitment to free and fair trade and your expertise are great assets for this administration.

You may now proceed.

Ambassador Brock. Thank you very much. I appreciate your comments. I should note that the USTR finally has an authorization bill, thanks in a large part to you and your staff. We are very grateful for that.

With me is my Director of the Office of Management, John Giacomini; my assistant, Dennis Whitfield; and my Director of Congressional Relations, Bill Maroni.

PREPARED STATEMENT

Mr. Chairman, I will just submit this testimony for the record and summarize it very briefly.

[The statement follows:]

Prepared Statement of Ambassador William E. Brock, U.S. Trade Representative

Mr. Chairman, I am pleased to appear before you to present our resource needs for fiscal year 1984 and to respond to your questions. With me is our Assistant U.S. Trade Representative for Administration, Dennis Whitfield, the Director of our Office of Management, John Giacomini, and our Director of Congressional Relations, Bill Maroni.

Mr. Chairman, in the last session of Congress our authorization bill for this fiscal year was passed. I wish to thank you and your staff for your assistance in this effort.

The bill gave us the authority for an additional Deputy United States Trade Representative. This means that we will have two deputies in Washington and one in Geneva. One of the deputy positions in Washington will be filled by Ambassador Michael B. Smith, who has been the head of our Geneva office for the past three years. He will replace David MacDonald who has resigned effective March 31 and who will return to private practice. The bill also authorized an additional $1 million dollars over our current appropriation of $10.1 million for fiscal year 1983.

As you know, we submitted a fiscal year 1983 pay supplemental request to OMB for $409,000 dollars. This has OMB's full support and is included in the fiscal year 1984 Presidental budget. Our pay supplemental request is needed to cover the 4-percent pay raise, lifting of the pay cap, and medicare contributions.

Since our appearance before this subcommittee at last year's budget hearings, we have reorganized the agency as illustrated in the organization chart which is attached to my statement. We have created units which are responsible for U.S. trade policy toward Europe and Japan, East/West and nonmarket economies, and we have put additional emphasis on trade policy development and coordination which includes services and interagency coordination. The chart again requires updating with the addition of a third deputy.

We believe that the addition of the third deputy and our reorganization will make the best use of limited personnel and funds so that we can fulfill our Presidential and congressional mandates. And, as we indicated last year, we are using every means possible to increase productivity and managerial effectiveness with the resources we have been given. In this respect I might add that several welcomed changes in USTR's 1983 authorization will be helpful in holding down costs this year. In particular, we expect that the new provision allowing for reimbursement for certain types of travel which would possibly cost us $30,000 to $40,000 more, will allow us to accept speaking invitations. As you are aware, travel is one of USTR's single largest expenditures, and one that by the nature of the agency's mandate is difficult to reduce without adversely affecting the U.S. effectiveness in international negotiations.

Since fiscal year 1980, we have been held to 131 positions, composed of two ceilings—113 permanent and 18 temporary positions. Beginning this fiscal year, we are allowed to operate under one ceiling of 131 permanent positions or workyears. We were given two additional workyears for this fiscal year only, for special intern/exchange programs, which raised our total to 133. By having one ceiling, this will allow us to create greater permanence for staff who are essential to the agency. This was the intent of the trade reorganization in late 1979. I might add, however, this "no growth" trend may continue through fiscal year 1984 in spite of rising workloads.

To supplement our permanent staff and to hold down personnel costs, we have been successful in establishing a volunteer university intern program. At this time we have twenty students, representing nine universities, who assist with research tasks. Also, we have three professional-level volunteers. Last fiscal year we estimate that this program saved us about $100,000. We were able to effect other savings by establishing a speedy computer communications link with Geneva, by reducing weekend guard service, by sharing data resources, and by acquiring details from other agencies on a non-reimbursable basis.

For fiscal year 1984, we are requesting a budget of $11.647 million which is $1.138 million or 11 percent over the fiscal year 1983 base level budget of $10.509 million. Our request represents a maintenance budget that will partially offset rising uncontrollable costs. For example, $673,000 or 59 percent of our total requested increase is for a rent increase initiated by GSA. A summary of our resource needs for fiscal year 1984 is also attached to this statement.

Any reduction of this total request will seriously affect our capability to do the job assigned to us.

I wish to assure the committee that we are continuing to exercise tight controls over expenditures especially for overtime, travel and procurement. Our senior staff has a direct role in this control process.

Mr. Chairman, we believe that our request is a very reasonable one and conforms with the need for national budget constraints even with rising workloads. With the requested resources, we will be able to pursue the administration's and Congress commitments to economic growth and strengthening the Nation's economy.

I would be pleased to respond to your questions.

Thank you.

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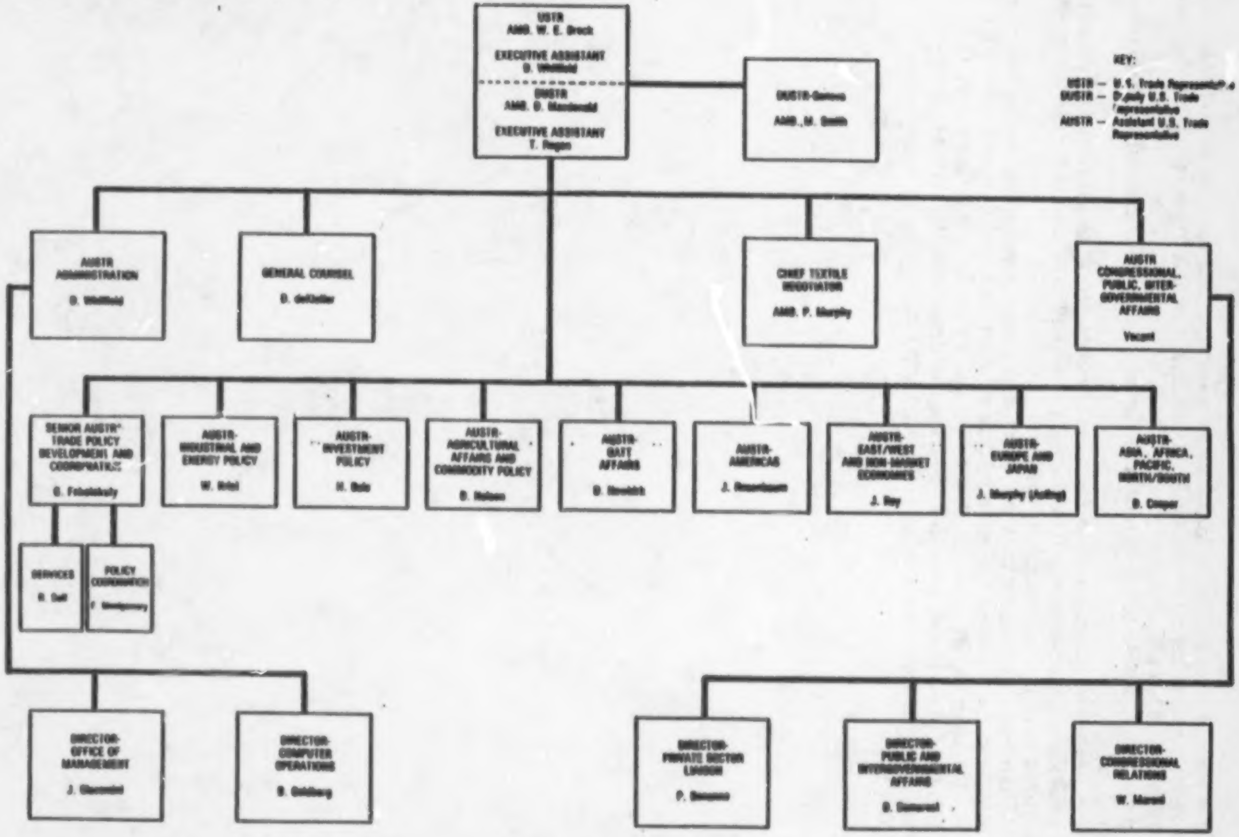
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE (USTR)


USTR
AMB. W. E. Brock
EXECUTIVE ASSISTANT
D. Whitfield
DUSTR
AMB. D. Macdonald
EXECUTIVE ASSISTANT
T. Regan
DUSTR-Geneva
AMB. M. Smith
AUSTR ADMINISTRATION
D. Whitfield
GENERAL COUNSEL
D. deKieffer
CHIEF TEXTILE NEGOTIATOR
AMB. P. Murphy
AUSTR CONGRESSIONAL, PUBLIC, INTER-GOVERNMENTAL AFFAIRS
Vacant
SENIOR AUSTR* TRADE POLICY DEVELOPMENT AND COORDINATION
G. Feketekuty
SERVICES
R. Self
POLICY COORDINATION
F. Montgomery
AUSTR-INDUSTRIAL AND ENERGY POLICY
W. Krist
AUSTR-INVESTMENT POLICY
H. Bale
AUSTR-AGRICULTURAL AFFAIRS AND COMMODITY POLICY
D. Nelson
AUSTR-GATT AFFAIRS
D. Newkirk
AUSTR-AMERICAS
J. Rosenbaum
AUSTR-EAST/WEST AND NON-MARKET ECONOMIES
J. Ray
AUSTR-EUROPE AND JAPAN
J. Murphy (Acting)
AUSTR-ASIA, AFRICA, PACIFIC, NORTH/SOUTH
D. Cooper
DIRECTOR-OFFICE OF MANAGEMENT
J. Giacomini
DIRECTOR-COMPUTER OPERATIONS
S. Goldberg
DIRECTOR-PRIVATE SECTOR LIAISON
P. Demarco
DIRECTOR-PUBLIC AND INTERGOVERNMENTAL AFFAIRS
D. Demarest
DIRECTOR-CONGRESSIONAL RELATIONS
W. Morand

KEY:

USTR — U.S. Trade Representative
DUSTR — Deputy U.S. Trade Representative
AUSTR — Assistant U.S. Trade Representative

*CHAIR, EXECUTIVE COMMITTEE

October 1982

Office of the U.S. Trade Representative
Summary and Description of Requirements by Object Class
(Dollar amount in thousands)

Appropriation: Salaries and Expenses

Object Class		1983 Appropriations Pos.	1983 Appropriations Amount	1984 Estimate Pos.	1984 Estimate Amount	Inc.(+) or Dec.(-) Pos.	Inc.(+) or Dec.(-) Amount	Emp. 12/31/82
11.1	Full-time permanent positions..........	115	$4,874	113	$4,903	-2	+29	112
11.3	Positions other than full-time permanent........ (1040s, intermittents, part-time, consultants, driver-messengers for Geneva)		589		589		+0	
11.5	Other personnel compensation. (overtime, differentials, SES awards, merit increases)		166		166		0	
11.8	Special personal services payments.................... (reimbursable details)		904		905		+1	
	Total personnel compens.	115	$6,533	113	$6,563	-2	+30	
12.1	Personnel benefits......... (health, retirement, insurance, allowances)		695		699		+4	
21	Travel and transportation of persons.................. (travel, per diem, miscellaneous expenses)		813		876		+63	
22	Transportation of things...... (transport of household and personal effects to Geneva; U.S. storage of goods)		10		36		+26	

Object Class (Continued)		1983 Appropriation	1984 Estimate	Inc.(+) or Dec.(-)
23.1	Standard level user charges... (rent for office space in Washington)	434	1,107	+673
23.2	Communications, utilities and other rent.............. (office and residence rents - Geneva, utilities, Xerox, telephone, postage, teletype, computer time)	695	950	+255
24	Printing and reproduction..... (federal register, stationery, forms, reports)	107	156	+49
25.1	Other services............... (administrative support - Geneva, personnel and vendor contracts and office machine maintenance, transcribing and translation services, career development, language training, clearances)	997	966	-(31)
25.2	Representation...............	60	60	0
26	Supplies and materials....... (office supplies, computer expendables, supplies)	119	160	+41
31	Equipment.................... (office equipment D.C. and Geneva, computer hardware and software)	46	74	+28
	Total requirements.........	$10,509*	$11,647	+$1,138

*includes pay supplemental of $409K

ADDITIONAL DEPUTY FOR USTR

Ambassador **Brock**. The bill that I mentioned gave us authority for an additional Deputy for the USTR. That means we will have two deputies in Washington and one in Geneva. One of the deputy positions in Washington will be filled by Ambassador Michael B. Smith, who has been the head of our Geneva office for the past 3 years. He will replace David MacDonald who has resigned effective March 31, returning to private practice. The bill also authorized an additional $1 million over our current appropriation of $10.1 million for fiscal year 1983.

BUDGET REQUEST

As you know, we submitted a fiscal year 1983 pay supplemental request to OMB for $409,000. This has OMB's full support and is included in the 1984 budget. Our pay supplemental request is needed to cover the 4-percent pay raise, lifting of the pay cap, and medicare contributions.

AGENCY REORGANIZATION

We have reorganized, as our chart indicates, including creating units which are responsible for U.S. trade policy towards Europe and Japan, East/West and nonmarket economies, and we have put additional emphasis on trade policy development and coordination which includes services and interagency coordination. The chart will require further updating with the addition of a third deputy.

We believe that the addition of this deputy and our reorganization will make the best use of limited personnel and funds so that we can fulfill our Presidential and congressional mandates. As we indicated last year, we are using every means possible to increase productivity and managerial effectiveness with the resources we have been given. I do want to note with appreciation the new provision of the authorization which allows reimbursement for certain types of travel which would possibly cost us $30 to $40,000 more. Travel is our largest single expenditure and is necessary for us to achieve our mandate.

PERSONNEL LEVELS

We have been held now for the fourth fiscal year to 131 positions, composed of two ceilings—113 permanent and 18 temporary positions. Beginning this fiscal year, we are allowed to operate under one ceiling of 131 permanent positions. By having one ceiling, this will allow us to create greater permanence for staff who are essential to the agency. This is the intent of the Trade Reorganization Act of 1979. I might add, this no-growth trend may continue through fiscal 1984 in spite of the rising workload.

Senator **Laxalt**. Are you able to do your job satisfactorily at this level?

Ambassador **Brock**. Yes.

Senator **Laxalt**. You think you are.

Ambassador **Brock**. It is very tight, but we simply, all of us, have to operate in today's fiscal circumstances. I don't know whether we have any choice.

We have tried to stretch our budget by bringing in 20 students in a volunteer internship program, and they are of enormous value to us, better than $100,000 in real value to the office last year. We have tried to effectuate other cost savings in order to put our dollars where they would get the highest yield.

BUDGET BREAKDOWN

The fiscal 1984 request is for a budget of $11.647 million, which is $1.138 million, or 11 percent, over the 1983 base. That is a maintenance budget and reflects only rising uncontrollables. For example, $673,000, 59 percent of the increase, is for the rent increase initiated by GSA. A summary of our resource needs is attached.

Any reduction would seriously affect our capability to perform the assigned functions by the Congress and the President.

Last, I want to assure you that we will continue to exercise tight control over our expenditures, especially for overtime, travel, and procurement. Our senior staff does play a direct role in that control process.

With the requested resources, we will be able to pursue the administration's and Congress' commitments to economic growth and strengthening the Nation's economy.

I would be delighted to respond to any questions you have.

Senator **Laxalt**. Very well, thank you.

DEPARTMENT OF TRADE

Tell me, Mr. Ambassador, how does your office interact with the Secretary of Commerce and the International Trade Administration on a day-to-day basis? As you well know, we had Secretary Baldrige in here last week and I asked him about the need for creating a Department of Trade. He agreed with me that jurisdiction over trade matters is all over the lot in this Government. I was wondering, I know that your personal working relationship couldn't be better, but as far as between the agencies can you effectively coordinate trade policy or is a single department called for?

Ambassador **Brock**. I think the very nature of trade as a function in our executive office is so pervasive that it really laps over into every department. The whole purpose of the Congress in creating first, a Special Trade Representative and then a U.S. Trade Representative in the last reorganization was to give to the President, in his own executive office, the ability to coordinate trade policy. There is just no time in the foreseeable future in which trade and diplomatic policy, which is in the State Department, international financial arrangements, and that is Treasury, as well as the Commerce Department, the Agriculture Department, Labor, others—and the idea behind USTR is to put into the executive office this coordinative role. I frankly think it has worked remarkably well. And given a lot of gray areas, the President has arranged his system in the White House in such a fashion as to have far more coordination than I have even seen in the 20 years I have been in this town. The various Cabinet Councils, the Trade Policy Committee work cooperatively. I have never seen Cabinet government work until this President's. I think it has worked under President Reagan, and I am very grateful for that fact. I think it does require a strong leader. I think he has provided that leadership and that is why it has been successful.

IMPACT OF WORLD OIL PRICE ON TRADE

Senator **Laxalt**. We have had recently, Mr. Ambassador, a rather rapid decline in the world price of oil. Assuming the price stabilizes or declines further, what impact will this have, in your estimation, on the long-term trading position of the United States?

Ambassador **Brock**. I just believe every dollar down is a dollar gained. I think we are better off by far. The first impact will not be one of increasing our net trade position because other countries will get a reduction in price just as well. But the very quick impact will be for faster rate of worldwide economic growth. We will be enormously benefited here. Every dollar decline in oil prices saves us $5 million per day, and that is a lot of money. The $5 or $6 reduction that we have had to date would indicate a net savings to the American people of about $11 billion. That is real income in the pocket of the American people. That will help improve our rate of growth, our recovery from the recession. It will help us to reduce the rate of inflation. It will do the same for other countries, thereby generating economic activity. I believe this to be a plus to economic competition in any other country in the world. We have gone through our tough times. We are lean and tough and competitive. This restoration of growth that comes from the decline in oil prices should advantage us greatly.

AUTOMOBILE DOMESTIC CONTENT LEGISLATION

Senator **Laxalt**. Speaking of lean and tough, as you know, last year the House of Representatives passed automobile domestic content legislation. What impact do you think such a proposal would have on international trade if the Senate saw fit to go along? What is your view?

Ambassador **Brock**. I think it would be disastrous. Senator, the one thing you don't want to do with legislation is to shoot yourself in the foot. That bill does it clearly, maybe even shooting yourself in the knee. You would raise the price of cars sold in this country. That would mean less people could afford to buy a car. That is the trouble today, the monthly payment of cars, with interest rates the way they have been. It would diminish the market for U.S. automobiles. The fewer the cars sold, means less people will be employed making cars. That means you have more unemployment.

The second consequence will be international repercussions. Other countries would follow our route and perhaps add other nuances that are protectionist. We will still export more than we import in almost all ways with the exception of oil. But in all areas where people work, we are a competitive country. We have more to lose than we do to gain by protectionism. That legislation is protectionist and would damage a trading system and put in jeopardy 65 million Americans working in export jobs today. I can't see any logical value to that kind of bill.

Senator **Laxalt**. Thank you. I fully agree with you.

My staff and I we have gone through your budget numbers and we find them to be reasonable. There will be some further questions we will submit for the record.

Senator Specter.

Senator **Specter**. Thank you very much, Mr. Chairman.

How are you today, Mr. Ambassador? I would like to ask you about some of the issues relating to steel, which I know you understand to be a principal concern of mine and Pennsylvania's and is presently in some very, very difficult times.

U.S. STEEL INDUSTRY

The moves toward protectionism are very acute, as Senator Laxalt has outlined. We are feeling a lot of pressure on that subject and my view is as you have expressed it, Mr. Ambassador, and Senator Laxalt has expressed it, opposed to protectionism, but there are a tremendous number of pressures on that subject.

Last year, after taking a look at some of the problems in the steel industry and dumping, I introduced legislation which would open up the Federal courts to dumping suits so that private parties could get injunctive relief to stop the dumping, or damages. The theory of that is that dumping has been illegal under U.S. laws for a long time, and given the virtually limitless variety of actions which can be pursued in the Federal courts, and since Federal court jurisdiction has been expanded, it seemed to me that the courts could well use their time on these issues which are very serious to the American economy, to the steel industry, and unemployment. The advantage of this kind of a procedure, it seems to me, is that it cuts a line right between protectionism and unfair trade practices. It is not protectionist to say that foreign importers should not be able to sell with subsidies, and the proceedings before the International Trade Commission found last year that British steel was subsidized to the amount of $250 a ton. I would like to know your thinking on such legislation, Mr. Ambassador, and why it wouldn't be a wise move to open up this kind of a remedy which could deal with unfair trade practices, would not be protectionist, and might quell some of the rising movement toward protectionism?

Ambassador **Brock**. Well, first of all, we are willing to explore and are exploring possible legislative changes, including looking at the statutes that cover dumping into this country, to be sure that they are both effective and timely in terms of their remedy, and I think that is the concern. There has been a question as to whether the courts in this country do operate on a very timely fashion, as you well know. But I think the point that you make is a fundamentally important one, and that is we do have to keep a distinction between overtly and aggressively protectionist actions, on the one hand, and legitimate actions to defend American workers against predatory trade practices by foreign governments on the other. The first is an exercise ultimately of a self-defeating nature. The second is an absolutely necessary function of this Government, and a commitment of this administration.

We have laws on the books. They have to be enforced. If they are not adequate, they should be tightened and drafted in such a way that they do work effectively to provide remedies when American workers are unjustly injured. We have international agreements that we are constantly working on to improve in this area. We have reached agreement, for example, with the European commission on subsidized steel imports into this country because we did find evidence that steel was coming in at a heavily subsidized price. We have taken a number of antidumping actions with regard to other governments—Brazil, Spain, South Africa, and others.

While I am reluctant to suggest any particular approach, I would like to welcome your own action and to suggest we would be happy to work with you to be sure that the laws are in fact effective and timely in their relief.

Senator Specter. Mr. Ambassador, I would appreciate it if you would give consideration to this proposed legislation. On the subject of the ability of the courts to function, the Marathon-Mobil Oil litigation about a year ago in Cleveland is an illustration of a complex matter, very difficult factually, very difficult legally, which was decided in the course of several weeks. I have had substantial experience in litigation in these complex cases, and I believe they can be presented in a fairly rapid order where there can be the showing of dumping and where injunctive relief would be obtained, and if there is a superseding request from the injunctive, then the party who seeks it has to post a bond. It is a much more effective remedy than what goes on before the International Trade Commission, where the relief is customarily prospective only. There are provisions for some limited application prior to the date of the findings. But the case you referred to was filed in January of 1982 and there was a preliminary finding in June, and there was a later finding in August. There were modifications to it. As you look at that remedy, it really is not adequate, in my judgment, and certainly would be far from the remedy available through injunctive relief.

Ambassador Brock. There is one difference, though. The present law allows us in our several offices—Commerce, USTR, ITC, these are the primary agencies involved—to deal with the prospect of injury, which a court can't do. The only way a court can act is if there is demonstrable injury. In the present law, if there is a serious prospect of injury, we can take action.

Senator Specter. Have you?

Ambassador Brock. I think we have on a number of cases.

Senator Specter. Mr. Ambassador, it seems to me the private parties settle for relief on demonstrated injury, if they could get it. It would be nice on prospective relief, but that is a very hard thing to measure.

Ambassador Brock. Well, they have both options under the present law.

Senator Specter. Except the option under the International Trade Commission is very limited relief. You cannot stop the imports, you can only get bonds posted or tariffs, or moneys paid by the importers, and those go to the government not to the injured parties.

Ambassador Brock. Well, we will be happy to explore this and other options with you.

Senator SPECTER. I welcome this opportunity to raise it with you, and I would like to pursue it further with your staff to see if something might be worked out which could propose a compromise where we do deal with unfair practices, and perhaps that could be structured to avoid some of the other moves on protectionism.

Ambassador BROCK. Good. We would be happy to.

BILATERAL STEEL AGREEMENT

Senator SPECTER. Mr. Ambassador, I would like to ask you about a petition which was filed by the steel industry on the allegations that there had been an illegal bilateral agreement between Japan and European countries, filed under section 301. I have before me a brief statement as to the reason that your department declined to conduct an investigation. And this does involve obviously complex matters, but I would be interested if you could explain the basis of the finding.

The lines which are particularly troublesome to me are these:

> The petition adequately demonstrates the existence of a bilateral agreement to restrain steel exports between the government of Japan and the ECSC, which, in USTR's view, is inconsistent with the provisions of Article 11 of GATT. However, the petition fails to present evidence to demonstrate that U.S. benefits arising under the GATT have been nullified or impaired by reason of the GATT-inconsistent measure.

As a preliminary question, are you familiar with this issue, with this petition?

Ambassador BROCK. Yes, I am.

Senator SPECTER. What does all that mean?

Ambassador BROCK. Under both GATT obligations and U.S. law, the requirement is not simply to demonstrate an illegal practice, but some injury as a consequence of that action. Under the GATT rules, if you can prove an injury as a result of an illegal practice, then you can withdraw concessions of a comparable amount in order to achieve a remedy, or you can take alternative actions.

But we dismissed this case—and I should note very carefully we dismissed it without prejudice—on the basis that while we do not believe such bilateral agreements are within the confines of normal GATT practice, we did not have in the submission documentation that would have demonstrated an injury. As a matter of fact, we very carefully analyzed this case. We spent a lot of effort trying to evaluate it on merit. A substantial increase in shipments would have at least been one indication.

Senator SPECTER. To the United States?

Ambassador BROCK. Yes. As a matter of fact, there has been over the last 6 months or so a very substantial decline in shipments. The documentation presented to us simply did not present evidence of injury to the degree it would have warranted us moving forward.

Senator SPECTER. Well, Mr. Ambassador, I understand the conclusion which you have reached, and I do not have detailed knowledge of it. I would venture a couple of observations. One is that where Japan and the Europeans have an agreement that Japan is not going to send steel to the European markets, there is certainly the potentiality you referred to before, namely, that steel might come to the United States. On a somewhat different dimension, in a context where the steel industry has such problems and there are such limited remedies available to the steel industry, I would have thought it useful at least to have pursued an investigation so that the steel industry did not feel that there was an action by your department which was not appealable, where you wouldn't even investigate the matter. In a Federal proceeding if there is any possible way that discovery might show the existence of a case or the requirements of due process, the case is often investigated. In this instance, an investigation may have been initiated just so that people feel that the Trade Representative is taking a look at it. Goodness knows there are a lot of matters that come to us all the time and they appear to have so little merit on the surface, but the first thing we do is say, "Let me take a look at it." But that would have been very salutary to the steel industry, which responded with such vehemence at your turndown even to make an investigation.

Ambassador **Brock**. I understand that. I guess we are dealing somewhat in semantics here, but we did very carefully evaluate the merit of the case and we did seek as much information as we could gather on the request. One of the problems that exists under this combination of U.S. law and GATT contract is literally the day we accept a 301 petition, we have to accept it, and then present it to the GATT as a formal case. We have to immediately proceed to consultations and to present documentation which would warrant the charge.

Senator **Specter**. Is your acceptance of it, your agreement to have an investigation, some preliminary determination that there is merit in the complaint?

Ambassador **Brock**. The dilemma we are put in by the fact that we have to immediately proceed to GATT consultation the day we accept the case is we have to have the case fairly well proven and documented before we can take it to the GATT. That is the dilemma that is posed by the injunction in the law.

Senator **Specter**. Why can't you go to GATT and say this issue has been raised and we wish to explore it with you and find out about it?

Ambassador **Brock**. You, I think, would be put in a position of simply not having any effective consultation as a consequence of that action. We have to be able to document the case thoroughly before we can make that serious a charge. And it does put a very special burden on the American industry because of the way these agreements are drawn. I accept that. But there are occasions when because of that fact, we have had to self-initiate and do our own investigations because of the burden that puts on the U.S. industry. In this particular case, the case was filed with us after some delay. Additional documentation was requested, but it did not address the central concern of injury in such a fashion for us to present charges.

VALUE OF JAPANESE YEN

Senator **Specter**. Mr. Ambassador, the allegation in this matter raises the issue of the Japanese industry being able to maintain a competitive advantage by reason of an undervalued yen. Senator Heinz, Senator Proxmire, Senator Kasten, and I met on the Harley

Davidson issue at some length with a variety of representatives. And I want to commend you for the work you have done on that matter, although it is far from what appears to be a satisfactory solution.

Ambassador **Brock**. We haven't resolved it, but we are working on it.

Senator **Specter**. It is sure tough and it is sure complicated.

But the issue of the yen came up, and one view expressed was that the Japanese are undervaluing their yen to have a competitive advantage, and there was disagreement on that on the grounds that some said that the low valued Japanese yen put them at a disadvantage in buying oil. What is your sense on that issue?

Ambassador **Brock**. My sense is, I would give a lot to find one economist in the whole world that was smart enough to tell me what the real value of the yen is.

Senator **Specter**. Is it good or bad to have it valued low? Is it valued low?

Ambassador **Brock**. My instincts, indicate, that it is. I think most people feel the dollar is somewhat overvalued and the yen somewhat undervalued. Part of that has nothing to do with trade, it has to do with the United States being a safe haven for investment. We received a huge amount of short-term investment from Japan last year which had the perverse effect of strengthening the dollar and weakening the yen, which made them more competitive and us less competitive in trade terms. These are short-term investments in Government bonds and money market certificates rather than real investments which would have helped change the trade balance.

The undervaluation of currency, the yen being the case at hand, does provide a very specific advantage to the exports from that country and a disadvantage to U.S. firms that are in competition either here or internationally. I grant you that it might raise their oil prices, but they export a whole lot more than they import.

Senator **Specter**. So the net advantage is?

Ambassador **Brock**. The net advantage is to Japan at the moment. We have wrestled mightily with it just in terms of trying to define what is overvalued and undervalued, and it is a hard thing to come to grips with.

Senator **Specter**. Mr. Chairman, I have just one further question, if I may, and it follows your inquiry on the oil issue.

OIL CARTEL AGREEMENTS

Mr. Ambassador, is there any way that the U.S. Government can deal with the cartel agreements of the OPEC nations? When they sit down and fix prices, if they were doing that in the United States it would be a violation of our antitrust laws and they would all go to jail. Are there any deals we have with any of those nations where we could have leverage to withhold some benefit we are giving them to express our displeasure and stop them from international conspiracy to fix the price of oil?

Ambassador **Brock**. Leverage exists with those that are in difficult economic circumstances, but it does not exist with those that have received the primary benefit of the cartel and have acquired a lot of resources as a consequence. They will really sell us anything but oil, so we don't have any benefits that we can withdraw from them under normal GATT fashion. It is a difficult question.

Senator **Specter**. When you talk about the benefits of a competitive market, the price of oil would presumably be a lot lower if there was competition and no price agreement.

Ambassador **Brock**. That is correct.

Senator **Specter**. I would be interested to see that question pursued to see if there is any leverage. It is an anathema, it seems to me, to have to put up with international price fixing when it is so counter to all the things we believe in in this country. If there was any way we could do something about it, I would like to see it explored.

Ambassador **Brock**. We have done so. We will do more, and we can further discuss it if you like.

BILATERAL STEEL AGREEMENT

Let me come back to one point you made earlier because I think it does indicate the kind of complexities we have to wrestle with. When we were talking about the yen-dollar relationship and the EC-Japanese agreement on steel, the complaint said that the EC-Japanese arrangement for—I don't think it ended up making this as a final charge, but the implication was, as you said, if Japan is not selling steel to Europe, it might be selling it to us. The problem with any restraint on Japanese steel going into Europe has the effect of weakening the yen and thereby making the problem worse in that sense. It does have that perverse effect. But the more difficult question is can you then prove a diversion on the basis of quantity shipped? That is where we get into the kind of difficulty we have been having to wrestle with, and it is hard to prove.

Senator **Specter**. Well, I certainly sympathize with the complexities of the areas you work in, Mr. Ambassador. They are as tough as any I have seen.

Ambassador **Brock**. Almost as tough as those you have to wrestle with every day in the Senate.

Senator **Laxalt**. Unless you are over at EPA, Bill. [Laughter.]

SUBMITTED QUESTIONS

We thank you all very much. We appreciate your doing a good job. We have additional questions for the record which will be inserted at this point.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR LAXALT

Question 1

Are there any proposals under consideration for reorganizing the Federal trade organizational structure? If there are, describe them, their status, and budgetary implications.

Answer

In establishing the Office of the United States Trade Representative, Congress sought to coordinate these interests under one umbrella. USTR was created to serve as an "honest broker" among the various agencies. In this sense, Congress intended trade policy to reflect the diverse responsibilities of our government.

The basic goal of the Administration and Congress has been to provide aggressive leadership for new opportunities in world trade, and to promote further liberalization of the world trading system. In this regard, the Administration recommends that any trade organization plan meet the following criteria:

- decisionmaking authority and functions be as comprehensive as possible;
- administration trade policy be enunciated in a single strong voice;
- resources and personnel be organized in a concise and compact manner, avoiding duplication in other agencies;
- maximum flexibility to allow quick exchange of resources, information and personnel from other agencies and the private sector; and
- avoid conflict between protectionist industry advocacy and pursuit of free trade principles.

The Administration supports the intent of Senator Roth's bill, S. 121, to reorganize trade functions under a single department, but is undecided as to whether a change in our trade organization is appropriate at this time. We wish to explore with this committee and other committees in Congress how our process could be improved.

We are not aware of any analyses which discuss the budgetary implications.

Question 2

Should the USTR focus its efforts solely on trade policy and negotiating matters and shift its administrative responsibilities for the Generalized System of Preferences and processing of 301 complaints against foreign unfair trade practices to Commerce's International Trade Administration? What would be the budgetary consequences of such action?

Answer

As stated in the answer to Question 1, the Administration supports the intent of Senator Roth's bill to reorganize trade functions under a single department. We are not aware of any analyses which discuss the budgetary consequences of such action.

Question 3

What is your role in defense trade issues arising from military sales, cffset arrangements between U.S. firms and foreign buyers, coproduction agreements, and general memorandums of understanding with our allies to promote competitive defense trade?

Answer

The Office of the United States Trade Representative does not have a direct role in military sales, offset arrangements between U.S. firms and foreign buyers, coproduction agreements and general memoranda of understanding with our allies to promote competitive defense trade. These agreements, contracts, and memoranda are negotiated by private U.S. companies or the Department of Defense directly with foreign governments and/or industry.

At the same time, it is not possible to separate the defense trade issues arising from such programs from trade in civil goods. In recognition of the impact which defense programs have on trade, we have taken a number of steps recently to strengthen the working relationship between this Office and the Office of the Secretary of Defense (OSD), and to raise, in the deliberation of defense issues, the likely trade consequences.

A 1982 OSD study addressed directly the issue of offsets, recommending that this Office take the lead in seeking agreement with the major arms exporters to restrain offset competitions. The issue of offsets is currently under review in the Administration. We are consulting with our Defense Policy Advisory Committee on Trade to develop consensus as to our objectives and how best to go about achieving the agreed objectives.

Question 4

Formulation and implementation of trade policy has important consequences for such matters as our balance of trade, the amount of subsidies paid to farmers, and the prices paid by consumers for goods and services. Would you respond to the following observations and questions?

a. While such international agreements as the subsidies code and the Government procurement code seems to further competitive international trade and may reduce the further growth of non-tariff barriers, it is our understanding there is very little that can be claimed in terms of specific erosion of existing subsidy practices or increased sales by U.S. firms to foreign governments. Can you identify for us any specific subsidy practices that were eliminated or mitigated since adoption of the subsidy code? Also, can you identify specific instances where U.S. firms were able to sell specific products to a foreign government that they could not sell before the adoption of the Government Procurement Code? Can you identify any products sold by U.S. firms to foreign governments where the domestic capability to produce that product exists in that country?

Answer

Since the adoption of the subsidy code there has been a continuing reduction of export credit subsidies (and a reduction in the burden on the U.S. Export/Import Bank) through subsidy code enforcement of the OECD arrangement n export credits. In addition, a Canadian provencial overnment subsidy on potatoes was eliminated in 1982 hrough code related representation by the U.S. Government o the Canadian Government. The most significant result f the subsidy code has been the prevention of export ubsidization of industrial products from developed countries luring a severe economic recession.

number of products, such as data processing equipment and scientific apparatus, sold to the Japanese Government are produced by Japanese competitors.

Question 4b

Government efforts to respond to European Community agricultural exports subsidies and restricted access to Japanese markets impacts on funds required for agricultural support programs and for unemployment benefits. What plans do you have for coping with these programs?

Answer

Our efforts to gain unrestricted access to the Japanese market are part of our ongoing activities and do not take funds from either of the other programs mentioned. If the efforts with respect to the European Community's export subsidies are successful, it would very likely mean that our agricultural sector would be given a boost that would manifest itself through increased farm income and higher employment figures in sectors of the economy that are involved with agriculture. This would mean reduced expenditures for support programs and unemployment benefits.

Questions 4c

Are you making any progress in resolving outstanding problems with Canada as to their discriminatory practices in investment and energy matters?

Answer

While the Administration remains concerned over Canada's investment and energy policies, we have been encouraged by recent measures implemented by the Canadian Government to improve the climate for foreign investors. Specifically, measures have been implemented to streamline the process of applying for approval from the Foreign Investment Review Agency (FIRA) to establish a business in Canada. As a result, processing time for applications have been substantially reduced and approval rates are up.

U.S. concerns over trade-related performance requirements exacted by FIRA as a condition for approval of foreign investment proposals has been the subject of a dispute settlement proceeding before the General Agreement on Tariffs and Trade (GATT) since last fall. We are hopeful that a ruling will be forthcoming by this summer.

Although the objectionable aspects of Canada's National Energy Program (NEP) remain essentially unchanged, there appears to be a new pragmatic tone in Ottawa in its energy policy. The energy sector has suffered from unanticipated economic and financial difficulties, and the Canadian Government is attempting to restore stability and confidence to investors in this sector. Senior-level bilateral consultations are continuing to address U.S. concerns in this area.

Question 5

GAO in its 1981 report on the section 201 program (ID-81-42), and others have noted that insulating an industry from competition can prolong rather than accelerate the adjustment process and, therefore, a comprehensive adjustment strategy should be supplied to the Government as a quid-pro-quo for import relief so the Government can monitor the petitioner's adjustment process. What are your current views on the proposition that management and labor should, as in the Chrysler case, be required to make specific commitments as a quid-pro-quo for import relief? What, if anything, should be done at the executive and legislative levels to implement such a policy?

Answer

We concur with the view that, in some cases, the provision of import relief can prolong, rather than accelerate, the process of adjustment to import competition. As a result, the Executive Branch interagency review process has focused more attention in recent Section 201 and 203 cases on industry adjustment plans in arriving at its recommendations to the President. Two recent examples where adjustment plans received considerable attention were Section 203 cases involving porcelain on steel cookware and clothespins. In both cases, the Administration carefully reviewed past adjustment efforts and future plans.

On the other hand, a number of agencies believe it may be appropriate to grant import relief in some cases to assist industries to phase out of a line of business, particularly where a U.S. industry has lost its comparative advantage due to shift in terms of trade. In such cases, the granting of import relief can facilitate an orderly "adjusting out" or contraction of the particular industry to the point where only competitive firms survive. By providing import relief in such cases, the level of imports is temporarily lowered, giving the workers and owners of capital in the industry more time to adjust. In this way, the frictions that cause factor immobility between industries tend to diminish in importance, which reduces the cost of adjustment. Workers retire or become resigned to the need for a change in occupation, machines wear out or can be sold, etc.

Some agencies are opposed, however, to granting relief to an industry, say the apple industry, if it were to announce plans to use the relief period to invest in oil companies. Yet this type of decision may be better for the overall health of the economy than additional investment to expand capacity to produce uncompetitive products.

The granting of import relief can, in some situations, even aggravate the competitive problems of an industry. For example, temporary protection may increase profitability, leading to demands from labor for higher wages. When protection is removed, such an industry may be less competitive than it would have been if protection had never been received.

The Executive Branch takes no position at this time on the proposition that management and labor should be required to make specific commitments as a quid pro quo for import relief. Obviously, this proposition entails a greater degree of government interference in the marketplace than has been conventional practice for escape clause cases. The Executive Branch is currently reviewing a broad range of administrative proposals to reform trade remedy laws and this issue, along with numerous others, will be fully considered.

Question 6

a. Would you identify for us any new products that U.S. firms are now selling foreign governments that may be attributed to increased coverage under the Agreement?

Answer

Given the nature of government procurement it is difficult to track where governments are buying specific products from producers in a particular country. Nevertheless, we have anecdotal information on U.S. successes. In particular, U.S. firms have won contracts for data processing equipment and scientific apparatus with the Japanese Government. For a number of these purchases, we understand that there were Japanese competitors.

b. For those products listed under question 1 which ones do the foreign governments have the domestic capability to product?

Answer

A number of the products for which U.S. firms won contracts to sell to the Japanese Government are produced by Japanese competitors.

c. What other products do U.S. firms sell foreign governments that they have the domestic capability to produce?

Answer

We have no further specific information beyond that which is provided in the answers to questions 5a and 7a.

d. Has USTR established an information system to provide for disclosure of foreign penetration of U.S. Government procurement under the Agreement? What are you doing to ensure that such information is accurate?

Answer

USTR has developed a system in coopration with the Federal Procurement Data Center, for monitoring the level of U.S. procurement from abroad. The Data Center collects raw data from all Code covered entities and provides it to USTR for processing. We are carefully reviewing the data to ensure that any flaws are rectified. There have been some start-up difficulties with the system and we are working with the Data Center and individual reporting agencies to correct them.

e. What are we doing to monitor foreign government compliance with the Agreement?

Answer

We are actively monitoring compliance with the Government Procurement Code. These efforts include, analyzing foreign procurement laws and regulations to see that they comply with the Code, reviewing foreign procurement documentation to ensure that it meets Code requirements, quickly responding to any questions from U.S. firms that indicate compliance problems, and analyzing data provided by Code signatories on their Code covered procurement to determine whether there are any systemic problems. It should also be noted that prior to the entry into force of the Agreement, detailed instructions were sent to our Embassies in Code signatory countries on monitoring of this and other Codes.

f. Identify any recognized compliance problems with foreign governments and describe what we have done to resolve them?

Answer

There were a number of start-up problems in implementing the Code. For instance, in many cases countries did not allow 30 days for firms to bid as the Code requires. Also, in a few instances Code prohibited requirements were included in tender documentation. In each case we immediately contacted the country concerned through our Embassy and these start-up problems were quickly resolved during the first year of Code implementation (1981). We have also had one difference with the European Communities concerning the treatment of taxes in determining whether a contract is above or below the Code's threshold for coverage. We are seeking to resolve this issue by resorting to the Code's dispute settlement procedures.

g. What are the prospects for providing for increased coverage under the Agreement?

Answer

Under the terms of the Government Procurement Code, negotiations on expanded Code coverage must begin before the end of the year. It is to early to tell at this point just how difficult these negotiations will be although we know our task will not be an easy one.

Question 7

a. In late 1981, OUSTR accepted a number of petitions under section 301 of the Trade Act of 1974 as amended alleging that the agriculture export practices of the European Economic Community violate the Agreement. None of these cases have yet been resolved although the applicable statute states that such cases should be resolved in 9 or 10 months depending on the nature of the allegation?

--What is preventing timely resolution of these cases?

--Are the dispute settlement procedures in the subsidies agreement proving useful in resolving the various disputes initiated by the U.S., or is some other procedure needed to control and eliminate trade distoring subsidies?

--How many times has the U.S. Government requested information about subsidies from foreign governments under the Subsidies Agreement (Article 7.1)? What were the results?

--How many times has the U.S. Government invoked Article 7.3 of the Subsidies Agreement which states that a signatory to the Agreement may itself bring a subsidy practice of another signatory to the notice of the Committee of Signatories? If the Government has used Article 7.3, what were the results? What are your perceptions as to the usefulness of this Article?

Answer

On the wheat flour and pasta cases that were taken to Subsidy Code dispute settlement, we have received panel reports but the Subsidy Committee has been unable to reach consensus on the adoption of the reports.

We are now discussing this problem bilaterally with the EEC and many other code signatories share our concern about improving the dispute settlement process.

While we have been disappointed that the dispute settlement process has taken longer than anticipated, we believe it is important to use the dispute settlement process in the subsidy agreement. We were pleased with the panel decision in the pasta case, however, we believe the dispute settlement process itself could be improved and we are engaged in discussing that concern as well with the EC and other signatories.

The U.S. Government has requested information under Article 7.1 twice in support of a 301 petition. The Government has invoked Article 7.3 in regard to Austria, Brazil, France, Italy, the U.K., Spain, and the duty remission schemes of Canada. As a result, the Canadians denied they were subsidizing and some of the other countries notified the subsidy code concerning their export subsidies.

b. Mexico is not a signatory to the Subsidies Agreement. During 1982, the U.S. and Mexico discussed a bilateral agreement in which Mexico would assume obligations substantially equivalent to those required by the Agreement. We understand such efforts have not been successful. What is the status of these negotiations?

Answer

The United States and Mexico did, in fact, enter into discussions during 1982 with a view to developing a bilateral subsidies agreement. For its part, the United States sought to have Mexico impose discipline on its export regime and consider joining the multilateral Subsidies Code negotiated with members of the General Agrement on Tariffs and Trade (GATT) during the 1975-1979 Tokyo Round. Mexico, on the other hand, sought the benefits of the U.S. injury test, i.e., in countervailing duty investigations, the United States would have to find not only that an export subsidy existed but that such a subsidy materially injured U.S. producers.

As the Lopez Portillo administration came to a close in November, however, Mexico discontinued the negotiations. Since that time, the U.S. Government has made clear to Mexico that, in exchange for the injury test, we will have to see a clear Mexican commitment to suspend the use of export subsidies for the duration of the bilateral agreement and to join the GATT Subsidies Code upon expiration of the pact.

We are awaiting a response from the Mexicans as to whether, with these new, more stringent requirements, it would be wise or politically feasible to renew the subsidies talks.

c. The U.S. Government requires developing countries to commit themselves to reduce or eliminate export subsidies over a period of time as a precondition to receiving the "injury test" under U.S. countervailing duty law. Some developing countries have signed the Subsidies Agreement and made such commitments, but many have not. We understand that little in the way of positive results have been achieved even from those countries that made commitments. What are your views as to the need for more specific commitments and what are the prospects for process in this area?

Answer

The U.S. policy since the end of the Tokyo Round has been to seek out and enforce commitments from developing countries to reduce and eliminate their export subsidies as a condition for receiving the injury test on dutiable products. While there are sever difficulties in the economic situation in many developing countries, the Administration continues to view discipline on export subsides as an important priority, particularly in the case of those countries that are competitive in the U.S. market.

QUESTIONS SUBMITTED BY SENATOR HOLLINGS

Question

Mr. Ambassador, it is my understanding that a team currently is in Peking attempting to negotiate a new textile bilateral agreement with the People's Republic of China. Do you believe they will come home with a meaningful agreement?

Answer

No agreement was reached during the fifth session of negotiations which ended in mid-March. We remain optimistic that a meaningful agreement will be reached. Meanwhile, our unilateral quotas will remain in place.

Question

The Reagan Administration is committed to limiting the growth of textile imports from all sources to the growth of the domestic market. However, in 1982, a year of severe domestic recession, imports increased by 3 percent and imports of apparel increased by 8 percent. How do you explain this seeming contradiction?

Answer

The overall rate of growth for imports of textiles and apparel was much lower in 1982 than in 1981. This was the result of a long-term program which takes time to have its full impact. The process was begun a little over a year ago when the extension of the Multifiber Arrangement (MFA III) established a framework for achieving a more meaningful relationship between growth of imports and growth of the domestic market. Subsequently, we negotiated new six-year agreements with our three largest suppliers. Taiwan, Hong Kong, and Korea, with neglible growth. This year we set unilateral quotas for China pending completion of negotiations for a new agreement. Those unilaterals and any agreement we might reach will slow down significantly the growth of imports from China. In addition, we have been negotiating tighter agreements with secondary suppliers and setting quotas with new starters at an earlier stage. As a result, we expect the growth of imports of textiles and apparel to be moderated further in line with the Administration's commitment.

SECURITIES AND EXCHANGE COMMISSION

STATEMENT OF JOHN S. R. SHAD, CHAIRMAN, SECURITIES AND EXCHANGE COMMISSION

ACCOMPANIED BY:

LEE SPENCER, DIRECTOR, DIVISION OF CORPORATION FINANCE
JOHN FEDDERS, DIRECTOR, DIVISION OF ENFORCEMENT
GEORGE G. KUNDAHL, EXECUTIVE DIRECTOR
LAWRENCE H. HAYNES, COMPTROLLER
DANIEL L. GOELZER, GENERAL COUNSEL

INTRODUCTION OF WITNESSES

Senator **LAXALT**. Our next request is that of the Securities and Exchange Commission. Appearing on behalf of this request is John S. R. Shad, the SEC Chairman.

Mr. Chairman, we are pleased to have you before us today to explain the needs of the Commission. If you would like, kindly introduce the members and colleagues that you have brought with you. You may proceed.

Mr. **SHAD**. Thank you very much.

On my far right is Lee Spencer, who is the Director of the Corporation Finance Division; John Fedders, who is Director of Enforcement; Daniel Goelzer, General Counsel of the SEC; George Kundahl, who is the Executive Director of the SEC; and Larry Haynes, who is the Comptroller.

Senator **LAXALT**. We welcome you.

OPENING STATEMENT

Mr. **SHAD**. We also have other people present today, but I hope I will be able to handle the questions.

I would like to make a brief opening statement which highlights the past year's results and ongoing activities.

Chairman Laxalt, Senator Specter, and other members of the subcommittee, the Securities and Exchange Commission is charged with the protection of investors and the maintenance of fair and orderly markets. The SEC's public disclosure, enforcement and oversight functions facilitate the formation, mobility and efficient employment of the Nation's capital.

The Commission's $91,935,000 fiscal 1984 budget request represents a 3-percent increase. The $2.6 million net increase is after a $2.9 million, or 6 percent, reduction in personnel.

FISCAL 1982 ACCOMPLISHMENTS

Fiscal 1982 was an exceptional year in terms of the volume and efficacy of the Commission's efforts and the reduction of unnecessary regulatory burdens. Briefly, the Commission brought 30 percent more enforcement cases, conducted 25 percent more investment company and adviser inspections, processed 8 percent more broker-dealer reports, and handled 5 percent more full disclosure filings than in fiscal 1981, with 5 percent less personnel.

Senator **Laxalt**. That is an interesting set of statistics. What accounts for that in what seems to be a rather depressed economic situation? Did we have more activity involving the jurisdiction of SEC in those times?

Mr. **Shad**. Well, what has happened, of course, is that we had an enormous increase in trading activity during this past year. Also, I think there has been a significant improvement in what has been an ongoing effort in terms of management techniques and procedures of the Commission. This is not just because I am there, it has been going on for some time. It is primarily a result of efforts by the division directors to improve the productivity of their activities, and I think that is what you are seeing as an ongoing benefit.

Senator **Laxalt**. You just developed a lot more efficiency over the years.

Mr. **Shad**. That is true.

Registration and other fees offset 94 percent of the Commission's $83 million budget, as compared with 81 percent in 1981.

The following were records, or the highest level in several years: 250 enforcement cases were brought; 1,000 investment company and adviser inspections were conducted; 6,600 broker-dealer reports were processed; and 65,000 full disclosure documents were handled. The Commission also obtained disgorgements and restitutions of $33 million, recision offers and refunds of $52 million and asset freezes of $36 million.

REGULATORY REFORM ACHIEVEMENTS

Major programs brought to fruition last year have reduced corporations—and therefore their shareholders—expenses by several hundred million dollars per annum, as well as the Commission's paperwork, but not investor protections.

Senator **Laxalt**. What does that mean?

Mr. **Shad**. That is a complicated statement.

Senator **Laxalt**. "Major programs brought to fruition have reduced corporations"——

Mr. **Shad**. Reduced corporations' expenses several hundred million dollars, therefore the shareholders.

Senator **Laxalt**. I see. We just got a transposition here.

Mr. **Shad**. It is a complicated statement. Let me give the facts so you will have specific situations to refer to.

For example, integration of the registration and reporting requirements under the 1933 and 1934 Securities Acts is one of the most important improvements in the securities laws since they were enacted half a century ago. For the benefit of shareholders, integration increases their financing flexibility and reduces their expenses by over $350 million per annum, as well as the Commission's paperwork, but not public disclosures. I really can't give enough emphasis to the integration program in terms of its significance in the regulatory scheme. It reduces expenses for companies and gives them greater flexibility without compromising full disclosure to the public, and also reduces the Commission's paperwork. Everyone wins on that one.

Over $500 million of the securities industry's capital was freed up by updating the net capital requirements to take into account the industry's improved financial and operational condition. This additional capital has helped investment bankers and brokers handle the much greater volume of financings and transactions which has occurred since last August and to improve their other services to investors.

Certain offerings, up to $5 million to other than the general public, have been exempted from registration. Private placements exemptions have also been simplified and improved.

Senator LAXALT. On the exempt offerings, up to $5 million, are we talking about a number of offerings?

Mr. SHAD. This year it is expected to be in the area of $4 billion. The concept introduces the accredited investor idea, where if an offering is sold to an accredited investor, then it doesn't have to be registered. In other words, the theory is that there is a level of sophistication among the buyers as there is in financial institutions and others. Private placements are expected to exceed $20 billion.

Senator LAXALT. Really I guess reputable people are dealing with reputable people and are protected in those cases.

Mr. SHAD. Yes, the public is really not a participant in those. They are being bought by sophisticated investors, mostly institutions that have the staffs to really carry through an investigation and satisfy themselves.

I think an important aspect of this so-called regulation is that most states are expected to adopt comparable exemptions, which will be the first joint State-Federal exemptions. It is an important precedent.

SHELF REGISTRATION RULE

The temporary shelf registration rule which was adopted this past year permits corporations to file a single registration statement covering securities they expect to sell from time to time within 2 years. Over $40 billion of securities have been registered under the shelf rule since last March. About half of those have come to market. Later this year the Commission will determine whether to extend, modify or withdraw the shelf rule.

Senator LAXALT. What is your present reading about whether this is working reasonably well?

Mr. SHAD. Well, it is under study right now. We have received a lot of comments. I would say there are significant responsible sources on both sides of the issue, in favor or opposed to it. We have extended the rule on a temporary basis, and are carefully monitoring the market to see what the impact of it is. Actually, the bulk of filings under the shelf rule have been investment grade debt filings, which are most often sold to institutions, insurance companies and pension funds. The amount of equity filed under the shelf rule is around $2 billion since last March, and most of that has been utilities. The companies are, I think, inhibited from filing shelfs because of the dampening effect in the market on their stock because of the overhang on the shelf. These are the areas we are carefully studying.

The opposition to the shelf rule would say we have the best securities market the world has ever known, and we don't need to go the Euro-dollar route which has been a market which is not nearly as broad. You can't do the volume and size as you can do here. The Euro-dollar market is a market which has small windows. It is open for 5 or 6 days, everybody is trying to go through the windows, and some of the deals, are parked with institutions rather than sold to long-term investors. Those bonds and stocks, if there is any weakness in the after market, sometimes get dumped back into the secondary market pretty fast, which can have a demoralizing effect. Those are the areas we have to study on the shelf experiment. We have had a bull market, so you don't see whether there is weakness in the seams until you get into choppy markets that will shake out an uneven distribution.

SWISS AND CFTC ACCORD

The historic accord concluded with Switzerland removed the haven of the Swiss secrecy laws from those who would trade on inside information.

The accord concluded with the Commodity Futures Trading Commission resolved a 7-year jurisdictional dispute and enabled the SEC to authorize trading in Treasury, GNMA, foreign currency, certificate of deposit and stock index options, all of which will facilitate government and mortgage financings, international trade, and the hedging of risks of fluctuating interest rates and securities markets.

NATIONAL MARKET SYSTEM

With reference to the national market system, the exchange and over-the-counter trades in 30 stocks have been electronically linked and last sales in 184 national market system over-the-counter stocks are now being reported on a real time basis.

Senator Laxalt. That is absolutely incredible.

Mr. Shad. Some progress is being made in that direction.

SELF-REGULATION

Greater reliance is also being placed on the private sector self-regulatory organizations under SEC oversight. For example, the 428 accounting firms which audit over 90 percent of publicly owned corporations are now on a 3-year peer review cycle, and the purpose of those reviews is to establish high auditing standards and practices. The stock and option exchanges are also enhancing their electronic intermarket surveillance systems and transaction audit trails which facilitate the quick identification of insider trading or manipulation.

CONFERENCES

Also, during the past 12 months, the Commission held the first research forum at which leading securities analysts and others recommended improvements in the SEC's disclosure and rulemaking practices.

Senator LAXALT. What happened as a result of the recommendations?

Mr. SHAD. Right now there is a great deal of work going on based on those recommendations, some of which relate to the Financial Accounting Standards Board in terms of accounting changes. We are having discussions with the FASB considering some of the recommendations. Within the SEC the staff is reviewing and will be making recommendations to the Commission itself for improvements as a result of the forum.

Senator LAXALT. What is the criteria by which you determine who is invited?

Mr. SHAD. What we are trying to do is get a broad cross-section of analysts from the major securities firms, the major banks, the major insurance companies. We just extended invitations to about three times the number that were able to attend, and I would say that we had representation by a broad cross-section of the analysts that advise particularly the institutions, but also the major brokerage firms. So I think we have significant representation from the analysts that have a lot to do with how the Nation's 32 million investors invest their money. And the reason we wanted to go this route is because analysts are the ones who work all day long with the SEC filing documents. I find it disturbing when we put a new rule out for comment we get a great deal of response from the securities bar, from issuers, and other people that have special interest in a proposed rule, and virtually none from the analysts who are the ones that are working with these documents. So we are making a real effort to get more input from the people that use these documents, and, therefore, the ones that are advising the investing public. They are the pros.

We also had a very important first round of meetings with five other Federal agencies with which we have overlapping jurisdiction—the Federal Reserve Board, the FDIC, the Comptroller of the Currency, the Federal Home Loan Bank Board, and the Commodity Futures Trading Commission. Our full Commission plus senior staff met with their full boards or commissions and senior staff to discuss how we could work better together in areas where we have overlapping jurisdiction.

We have had also the first government-business forum on small business capital formation, and a conference on major issues confronting financial institutions and markets in the 1980's, and an international conference with securities regulators from 31 nations that lasted about a week. With the increasing internationalization of the securities markets, we have to coordinate our efforts better than in the past.

Senator LAXALT. Do you work with the Fed at all?

Mr. SHAD. Yes; the Federal Reserve Board has jurisdiction of margin regulation of securities, and they are now doing a study on whether to transfer that authority to the SEC. We might propose it be given to exchanges under our oversight. In addition, the SEC has general oversight over corporate reporting through the 1934 Securities Act, which includes proxy statements, and we do administer that as to the bank holding companies, but the Federal Reserve Board has the responsibility for administering the 1934 reporting requirements of a certain segment of the banks. Another group is subject to the Comptroller of the Currency, and a third group to the FDIC, and those agencies in turn are supposed to implement any changes that the SEC adopts under the 1934 act. Sometimes it takes years for them to get around to it, and sometimes, in the case of the Federal Home Loan Bank Board, they automatically adopt modifications approved by the SEC in the absence of finding some reason to say it is not right for the savings and loan associations.

Senator LAXALT. Is there any correlation in the disclosure and reporting requirements of the SEC and our attempt to get some kind of fix on the money supply in the Fed?

Mr. SHAD. No, not in terms of the money supply. In terms of the financial condition of the banks and public, there is a great deal of financial information, but in terms of money supply that would not be within the reporting responsibility of the SEC.

Senator LAXALT. It wouldn't be of help?

Mr. SHAD. The Fed gets that primarily in the 13 Federal Reserve Bank districts, and that in turn from the banks.

LEGISLATION

In the area of legislation, in addition to the SEC/CFTC accord which was enacted last year, the Commission has proposed legislation to increase criminal fines from $10,000 to $100,000. They were set at $10,000 in 1934, so all we are doing is updating it and proposing to permit civil fines of up to three times insider trading profits—to require all over-the-counter broker-dealers to join a registered self-regulatory organization, and to repeal the Public Utility Holding Company Act. This later item has been endorsed by this administration.

Senator LAXALT. Where is this legislation?

Mr. SHAD. We have proposed it. It was introduced last year. Civil fines and the increase in criminal penalties have just been introduced this year in the House by Congressmen Dingell and Wirth, and in the Senate by Senator D'Amato.

Senator LAXALT. I see. I haven't seen it. I happen to chair the Criminal Law Subcommittee in Judiciary. I haven't seen this.

Mr. FEDDERS. It hasn't been introduced yet.

Senator LAXALT. We will be taking a look at that.

Mr. FEDDERS. There the principal thrust of the act is treble damages in the insider trading area, but it has that companion relating to criminal fines.

Mr. SHAD. I misspoke. It hasn't been introduced in the Senate. It has only been introduced in the House.

The proposed repeal of the Public Utility Holding Company Act was introduced last year.

Of the 6,000 broker-dealers, there are 450 that are still inspected by the SEC. We propose that they be consolidated into a self-regulatory organization to be inspected under our oversight, but not directly by the Commission.

We also testified in support of amendments to the Glass-Steagall, Foreign Corrupt Practices and Bankruptcy Reform Acts.

FISCAL 1983 AND BEYOND

Fiscal 1982 will be a difficult year to follow. Many had a part in the record results, but they are principally a tribute to the dedicated efforts of the outstanding SEC staff.

This year, in addition to ongoing efforts, the Commission formed an advisory group of outstanding individuals to do a study of the tender offer rules. The Commission is also reviewing the adequacy of enforcement remedies, means to further automate our data processing of filings and enforcement case reviews and screening techniques, and the rapidly changing domestic and international securities markets to be sure we are using our resources to serve investors.

The Commission also expects to implement proposed improvements in the proxy rules, in corporations' abilities to communicate with their shareholders, and in investment company prospectuses. And we will be an active participant in Vice President Bush's Task Group on the Regulation of Financial Services.

Thank you very much.

Senator **LAXALT**. Thank you, Mr. Chairman, for an excellent statement. I have a few questions here and will submit others later.

FISCAL 1984 APPROPRIATION REQUEST

The fiscal year 1984 budget justification submitted by the SEC to the Congress includes a number of references to possible adverse impacts proposed cuts will have on SEC activities. Are you satisfied the 1984 appropriations request is sufficient to allow the Commission to fulfill its legislative mandates? And I might say in addressing this concern, I speak not only for myself but other members of the subcommittee. As you know, it is great to get cut happy. If we are getting to the point where we are not permitting agencies like yours to do an adequate job, we would, frankly, want to know about it. We don't see any sense if you are short and this is damaging you. We are attempting to hold the line overall, but if you have any weak areas, Mr. Chairman, we would like to know about it.

Mr. **SHAD**. My answer to your question is yes, that we can discharge our mandate—we are requesting a 3-percent dollar increase that would result in a 6-percent personnel reduction—with fewer people, primarily because of increased productivity per man year, which is a continuing trend in the Commission, and a product of a combination of things. Increasing automation—we are using computer screens for review of filings by the issuers, as well as for enforcement case reviews and investment adviser inspections. Our data processing is being upgraded. We are using word processors in a variety of high speed means to process all the paperwork that is at the Commission. The amount of paperwork has been significantly reduced in terms of just tonnage by the integration rules, which significantly reduces the contents of the registration statement for a large segment of people that have to file those.

We are not reducing our activities, but the self-regulatory organizations are enhancing theirs, and that is serving to enhance our efforts. Again, it is all under the SEC's oversight. I mentioned some of those areas in my opening statement. We have proposed legislation which would eliminate the necessity for the SEC to inspect 450 securities firms. We have proposed repeal of the Public Utility Holding Company Act, which we administer. I don't know whether that legislation will pass.

Also, by contrast with 1982, we do not have the disruption of the move. We moved from one building over by the railroad station and consolidated, in the course of that move, the Commission's headquarter activities within a single location, which is a very desirable result. But that move, largely in the month of August last year, was disruptive. We didn't have effective air conditioning or telephones. So we will have the benefit of consolidated facilities without the burden of the move.

For all those reasons, I believe the Commission can discharge its mandate. I think we will maintain a very clear and visible presence in the markets.

I think one of the prophylactic aspects of our activity is the publicity that attends Commission actions. I notice that Rich Hudson from the Wall Street Journal is here today. Last year, 1982, the Journal's coverage of SEC cases was up 23 percent. The number of articles in the Journal on SEC enforcement actions increased 23 percent. I mentioned previously that the total volume of our cases was up 31 percent. So it would seem reasonable that there would be more stories.

I think that last year was an incredible year and a record year in almost all categories in the Commission, and it will be difficult to come on with an encore next year. It is always tough when you establish new highs. I think there was a bulge in the year which will be the telescope.

VOLUME OF TRADING ACTIVITY

Senator **Laxalt**. Do you have any feeling at all from your vantage on where the economy is going to go in terms of trading in the coming year?

Mr. **Shad**. In terms of trading?

Senator **Laxalt**. Yes, trading activity.

Mr. **Shad**. It is interesting that the volume of activity on the New York Stock Exchange triples every 10 years. Just for the decade of the 1970's it was a shade under 20 million shares a day, and, of course, you have seen an explosion since August of over 100 million shares. It would suggest that during this decade, if this trend persists, you would see an average volume running around 60 million shares a day, and actually for the first 2 years of the 1980's it has come in around 65 million shares a day, even though recently it has been averaging about 85 million shares a day. Now we are seeing it top out. I really think we have seen an explosion in volume and it is going to go back to a more normal relationship, with historical growth curves. My bottom line is we have seen a huge bulge and I do think the volume is going to taper down and run closer to the 70 million share type of daily volume, which is still very profitable for the financial community. I don't want to get into a prediction of the stock market, but the stock market has been undervalued on a variety of bases for a long time. Basically the high in the market was established in 1968, and adjusted for inflation the market is still very low, and it is low on a comparative basis with a variety of other indices of value. I feel that the prospects are favorable for the security markets. A very important consideration in the SEC is that the financial community has handled this bulge in volume without springing any leaks. It used to be, even in the late 1960's early 1970's, firms had to go to extended hours and a variety of emergency meetings to deal with 15 million share days.

Senator **Laxalt**. I guess we could spend a lot of time talking about the activities in the market. I would like to think that what is happening in the market has a direct relationship to the general state of the economy. There are those of us who pray a lot that the economy is going to go upwards, and we look at that market and feel better.

Mr. **Shad**. I think the market is trying to predict what the economy is going to do. I would suggest an affirmative prospect for next year.

Let me also add this high volume is a very affirmative development in terms of liquidity. Up until this past summer, institutions really didn't have the option of switching positions. If you had a million shares of a security and you thought it was overvalued, the market was not broad or active enough to be able to absorb it. Now you are seeing big block transactions between institutions. So formerly if you thought an area of the market was overvalued, say electronics, you would direct your new money into a different area to try to balance your portfolio, but you didn't have the flexibility of shifting positions. Now you do, and it has helped enormously. So I would say volume breeds volume. When you get these volumes, it provides the option of major transactions by institutions, which account for about 70 percent of the total volume.

Senator **Laxalt**. I just want to ask you one more question, Mr. Chairman, because we have another agency to listen to here shortly.

SECURITIES REFORM ACT OF 1975

In 1975, the Congress passed legislation designed to remove anticompetitive aspects of the securities industry and to promote a national market system, whereby securities could be traded throughout the country and not just in New York. Since the act has been adopted, can you state for my own purposes and members of the subcommittee as well, what progress, if any, has been made in this respect?

Mr. **Shad**. Well, the first point of your question was the anticompetitive point. The most anticompetitive aspect since the stock exchanges' beginning in Manhattan more than two centuries ago was removed with the unfixing of commissions, and that occurred in 1975, the same year in which the national market system was endorsed by Congress in the 1975 amendments. So commissions were unfixed in May of 1975, and they have gone to very competitive rates. The net result is that commissions are significantly lower than they were back then, even though the cost of everything else has been going up. Commissions have been reduced primarily on the institutional side, but institutions account for 70 percent of the total volume of trading. Retail commissions have gone up slightly, or trended upward, but the system still provides an incredibly low execution cost for investors. It is really a very efficient process. That was something fundamental to the increase in the competitive environment in the securities industry.

There has also been a succession of efforts since 1975. I would say there was a cautious approach because we acknowledge—and this precedes my involvement with the SEC—that we have the best markets the world has ever seen, the broadest, the most efficient and fairest. So you have to be a little cautious about major changes, and you are always worried about being able to put the egg back in the shell if you bust it. But the past 2 years have seen very significant movement concerning the national market system. In 1981, the Commission proposed the first order to link the over-the-counter and listed markets in some 30 stocks as an experiment, so-called 19(c)(3) stocks, which refer to the rule that was adopted which permitted the stocks to be traded simultaneously in the listed and over-the-counter markets. Now, they are electronically linked, and it has been very carefully monitored by the SEC and the securities industry.

Also, in conjunction with the linkage idea, there has been concern expressed by many of a need for an order exposure rule, so that the major integrated brokerage firms wouldn't simply do all the business upstairs rather than exposing it to the rest of the financial community and the trading floors. I expect it will be coming up to the Commission this year as to whether to adopt an order exposure rule.

As I mentioned in my opening remarks, the last sales reporting is now up to 184 companies. Those are so-called national market system designated over-the-counter stocks and this change is subject to monitoring to determine whether there is any adverse effect from last sales reporting. The proposal is to afford another 500 companies the opportunity to go to last sales reporting.

I think there are some meaningful initiatives in process, but with caution, not just by the SEC but by everybody, because we know we have something pretty terrific and we don't want to cause harm to the system.

PREPARED STATEMENT AND SUBMITTED QUESTIONS

Senator **Laxalt**. I think that is probably all I have for the moment. As I indicated, Mr. Chairman, we will be submitting additional questions to you. We will insert the answers, together with your prepared statement in the record.

Any of your people have anything to offer to the committee?

[No response.]

Senator **Laxalt**. I think you have done a fine job there, and you have our compliments. Members of the committee share that.

Thank you very much.

[The statement of John S. R. Shad follows:]

PREPARED STATEMENT OF HON. JOHN S. R. SHAD
CHAIRMAN
SECURITIES AND EXCHANGE COMMISSION

Chairman Laxalt and members of the Subcommittee:

The Securities and Exchange Commission appreciates this opportunity to present its 1984 budget request of $91,935,000, which is a 3% increase over the current continuing resolution, as adjusted by the proposed $1,300,000 supplemental pay increase.

The $2.6 million net increase over fiscal 1983 is attributable to increases in the following items: $1.9 million in space rental, $1.1 million in pay and personnel benefit costs, $1.4 million in automated data processing and micrographics support and $1.1 million in other expenses; less $2.9 million in personnel costs (117 staff years).

The SEC is charged with the protection of investors and the maintenance of fair and orderly markets. These mandates are discharged through the SEC's public disclosure, enforcement and oversight functions, which facilitate the formation, mobility and efficient employment of capital.

The Commission has attempted to fulfill its responsibilities in the most effective and efficient manner. Major programs brought to fruition during the past year are intended to assure that shareholders receive the most benefit at the least cost to them, their corporations and the government. These programs have reduced corporations', and therefore their shareholders', expenses by several hundred million dollars per annum, and reduced the Commission's paperwork.

1982 Results

The following are highlights of the Commission's results for the fiscal year ended September 30, 1982 and ongoing efforts.

Briefly, in fiscal 1982 the Commission brought 31% more enforcement cases, conducted 26% more investment company and advisor inspections, processed 8% more broker-dealer reports and handled 5% more full disclosure filings, than in fiscal 1981 with 5% less personnel. Registration and other fees offset 94% of the Commission's $83 million budget, as compared with 81% in fiscal 1981.

The following were records - or the highest level in several years, despite significant personnel reductions over the years: 251 enforcement cases were brought, 1,065 investment company and advisor inspections were conducted, 6,599 broker-dealer reports and 65,000 full disclosure filings were received, and $78 million of registration and other fees were collected. The Commission also processed about 17,000 public complaints. The staff of 1,882 was at the lowest level in several years.

Securities and Exchange Commission

	Fiscal Years		Percentage Change
	1981	1982	
Enforcement Cases	191	251*	+ 31%
Investment Company and Advisor Inspections	848	1,065*	+ 26%
Broker-Dealer Reports	6,106	6,599*	+ 8%
Full Disclosure Filings	62,000	65,000*	+ 5%
Total Staff-years	1,982	1,882†	- 5%
Public Complaints°	21,000	17,000†	- 19%
Fees Received as a Percent of the SEC Budget	81%	94%*	

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* - A record or the highest level in several years.

† - The lowest level in several years.

° - Estimates due to shift from manual to computer tabulation.

Reasons

Some of these results are the product of continuing improvements in management techniques and automation, such as the use of computer and data processing aides in the filings review process - and in screening investment advisors for inspection - and the Case Analysis and Tracking System used for weekly enforcement case reviews.

Simplification of corporations' filings requirements have reduced expenses ultimately borne by their shareholders, and have also reduced the Commission's paperwork.

The increase in fees to 94% of the budget was principally due to the growth of money market funds - which are now contracting.

However, the principal reason for the foregoing results and the major programs brought to fruition in fiscal 1982 - which I will describe in a moment - is the outstanding SEC staff, which is intelligent, energetic and committed to excellence. In its book just released on regulatory reform, the Heritage Foundation characterizes the SEC staff as "among the best and brightest in the government".

The following are highlights of major fiscal 1982 programs and the Commission's ongoing efforts.

Enforcement

Enforcement is the largest activity at the Commission. It accounts for about a third of the total budget. The 251 enforcement cases brought in fiscal 1982, compares with 191 in fiscal 1981, despite budgetary constraints and personnel reductions.

Nearly 60% (145) of these cases were injunctive actions. The balance (106) were administrative proceedings.

The 251 cases breakdown as follows. About 45% (117) involved violations by regulated entities and individuals, nearly 20% (47) concerned securities distribution violations, and 15% (36) financial statement and reporting violations. While the insider trading program has received high visibility, only 8% (20) were insider trading cases, 4% (10) were market manipulation cases and 8% (21) were other violations.

The foregoing cases include nine civil and criminal contempt proceedings, and ten cases brought under the accounting provisions of the Foreign Corrupt Practices Act (which represents over 40% of all Foreign Corrupt Practices Act cases brought since the FCPA was enacted in 1977). The 20 insider trading cases also represent 40% of all such cases brought in the past five years. Three 21(a) reports on important investigations were also published.

Disgorgements

The Commission obtained illicit gain disgorgements and restitutions of $33 million, recision offers and refunds to investors of $52 million and asset freezes to protect investors of $36 million. Comparable data are not available for fiscal 1981.

Swiss Accord

The Commission concluded an Accord with Switzerland which removed the haven of the Swiss secrecy laws from those who would trade on inside information. The Accord is an important precedent for greater international cooperation in the maintenance of fair and orderly markets.

Integration

In the interest of shareholders, integration of the registration and reporting requirements under the 1933 and 1934 securities acts increased their corporations' financing flexibility and reduced their expenses by over $350 million per annum, without reducing public disclosures. Integration has also reduced the Commission's paperwork.

Net Capital Rule

The securities industry's net capital, clearing house deposit and stock loan collateral requirements were updated to take into account the industry's improved financial and operational condition.

Larger discounts were imposed on the industry's bond holdings for net capital purposes in response to the greater volatility of these markets. However, the net result was that over $500 million of securities industry capital was freed-up for more efficient employment. Such capital has helped the industry handle the much greater breadth and depth of the securities markets since August and improve other services to investors.

Registration Exemptions

In the interest of small businesses' shareholders, certain securities offerings - up to $5 million to other than the general public - were exempted from registration, which will reduce small businesses' expenses by about $50 million per annum. Private placement exemptions were also simplified and improved, without reducing public protections. Most states are expected to adopt comparable offering and private placement exemptions - which will be the first joint state and federal registration exemptions. These exemptions also reduce the Commission's paperwork.

SEC/CFTC Accord

The Commission concluded an accord with the Commodity Futures Trading Commission which resolved a seven-year jurisdictional dispute and enabled the SEC to authorize trading in Treasury, GNMA, foreign currency, certificate of deposit and stock index options. The Treasury and GNMA options were endorsed by the Treasury, the Federal Reserve Board and the banking, homebuilding and securities industries. These new options will facilitate government and mortgage financings, international trade and hedging the risks of fluctuating interest rates and securities markets.

Investment Companies

In the interest of processing efficiency, which benefits investors, companies, and the Commission, rules were adopted which permit the automatic effectiveness of certain routine filings by investment companies. The Commission is also soliciting comments on proposals to simplify and improve investment company prospectuses and to eliminate the need for certain insurance company separate account exemptions. These measures reduce expenses ultimately borne by investors and reduced the Commission's paperwork, without reducing investor protections.

Legislation

In addition to the SEC/CFTC Accord, the SEC proposed legislation to increase criminal fines for certain violations - and to permit civil fines of up to three times the illegal profit for insider trading; and to require all over-the-counter broker-dealers to join a registered self-regulatory organization. The Commission also proposed repeal of the Public Utility Holding Company Act, and testified in support of amendments to the Glass-Steagall, Foreign Corrupt Practices and Bankruptcy Reform Acts. In July the Bankruptcy Code was amended in those respects supported by the Commission.

Accounting Regulations

A number of redundant or outmoded Accounting Series Releases were withdrawn and the balance were simplified and codified in a ready-reference manual. These measures reduce expenses ultimately borne by shareholders, and the Commission's paperwork, without reducing investor protections.

Proxies, Communications, and Releases

Comments have been solicited on proposed improvements in the proxy rules and others are in progress. Progress is also being made in facilitating corporations' ability to communicate with their shareholders, despite the high percentage of securities registered in nominee names - and in simplifying and improving SEC releases. These measures will benefit investors and reduce their corporations' expenses and the Commission's paperwork.

Self-Regulation

Greater reliance is being placed on private-sector self-regulation, under the SEC's oversight. Effective self-regulation results in greater investor protection and lower Commission expenses.

For example, under the auspices of the American Institute of Certified Public Accountants, the 428 accounting firms which audit over 90% of publicly owned corporations are now on a three-year peer review cycle. The purpose of these reviews is to assure high auditing standards. They also "pay for themselves" by reducing auditors' risks of liabilities to those who rely on their audits. These reviews are carefully monitored by the Office of the Chief Accountant.

Market Surveillance

In addition, at the Commission's initiative, the stock exchanges and the over-the-counter markets are enhancing their electronic market surveillance systems and transaction audit trails, under the oversight of the Market Regulation Division. In addition to exposing possible manipulation and insider trading, audit trails reduce securities firms' transaction reconciliation costs. These measures will permit the Commission to shift its in-house market oversight and surveillance system (MOSS) to an audit mode.

Task Force

In congressional testimony and speeches, the Commission has advocated for over a year the formation of a task force to help simplify and improve the regulatory structures of the financial service industries and capital markets, for the benefit of investors and depositors. Vice President Bush recently announced formation of a task force for this purpose.

Conferences

The SEC is also spending more time listening to investors, corporations and others. In 1982, the Commission held:

- the first Research Forum - at which 40 leading securities analysts and others recommended improvements in the SEC's disclosure and rulemaking practices;
- the first Government-Business Forum on Small Business Capital Formation, under the Small Business Investment Incentive Act;
- a conference on major issues confronting financial institutions and markets in the 1980s;
- and an international conference with securities regulators and others from 31 nations.

The Commission is also holding the first round of meetings with other agencies with which it has overlapping jurisdiction (the Commodity Futures Trading Commission, the Federal Reserve Board, the Federal Deposit Insurance Corporation, the Comptroller of the Currency and the Federal Home Loan Bank Board); as well as meetings with recognized authorities on current issues, and the executive staffs of the exchanges, the National Association of Securities Dealers, and associations that represent investors, industry and the legal and accounting professions.

Regulatory Reform

This year, the Senate and House Banking Committees, as well as other interested committees in Congress, will continue to hold hearings on matters which relate to the capital markets and securities laws. Vice President Bush's Task Group on the Regulation of Financial Services is expected to make major proposals. The Commission expects to participate in such hearings and deliberations.

Litigation

There are also a number of important cases pending, which may significantly impact the securities laws: the Dirks inside information case, and MacDonald concerning the determination of insider trading profits to be disgorged; several implied right of action cases, including Chemtron, Liberty National Insurance and San Francisco Real Estate Investors; and Dickinson, a 13(d) enforcement case; to name a few. The Commission is a party or has filed amicus briefs in these and many others.

Shelf Registration Rule

As part of the integration process, the Commission adopted, on a temporary basis, the shelf registration rule. This rule permits corporations to file a single registration statement covering securities they expect to sell from time to time within two years.

Over 2,200 shelf registration statements have been filed since March. Nearly 90% have been traditional shelf filings. Most of the balance have been investment grade debt filings, which amount to over 60% of the $70 billion of total debt issues filed in March through December. Equity shelf filings amount to only 3% of the $90 billion of total equity filings.

Coincidentally with the shelf rule, but not necessarily because of it, competition among underwriters has intensified and gross underwriting spreads for virtually all debt and equity offerings have contracted significantly.

The staff is monitoring these markets and the Commission will review the shelf rule later this year, to determine whether to extend, modify or withdraw it.

National Market System

The Commission ordered linkage of the exchange and over-the-counter markets in 30 stocks. This experiment is being closely monitored by the Commission and the securities industry. To date, there has been a slight improvement in the price continuity of transactions in these stocks.

The Commission recently released for public comment the order exposure principles, proposed by the Securities Industry Association-DeNunzio committee. The staff is studying the extensive comments received on this and other issues posed by linkage.

Transactions in 84 national market system over-the-counter stocks are now being reported on a real time basis. The number is scheduled to increase to 184 this month.

The volume of trading between exchanges through the Intermarket Trading System has increased from 102 million shares during its first twelve months of operation five years ago to over 825 million shares per annum in 1982. The Commission recently converted the ITS from a temporary to a permanent status.

Tenders, Remedies and Markets

During the coming year, the Commission will also be studying the tender offer rules and the underlying assumptions of the Williams Act, the adequacy of the SEC's enforcement remedies, and the rapidly changing domestic and international securities markets, in order to be sure that the Commission's efforts are being focused where they will best serve investors.

SUBMITTED QUESTIONS

(The following questions were not asked at the hearing, but were submitted to the Commission for response subsequent to the hearing.)

General

Question: The SEC has proposed a pay supplemental of $1,300,000 to cover 40% of the 1983 pay increase. $1.9 million of the total need of $3.2 million must be absorbed if this figure is accepted by the Congress. Where will these funds be absorbed and what impact will this have on the Commission's programs?

Answer: The $1.9 million of pay increase and medicare funds the Commission has proposed to absorb in FY 1983 will be primarily obtained by a savings of 48 staff years ($1.1 million) to be achieved through the delayed filling of vacancies and the forgoing of significant ADP expansion ($.8 million). A hiring board has been established to review staffing priorities and to try to insure that the impact of employee reductions is minimized.

The FY 1984 budget restores and increases the level of ADP funding to $1.5 million. To appropriately utilize these funds, and in an effort to identify areas where productivity can be enhanced, I have recently established an automation task force. This task force is focusing on those areas where there is a critical need to utilize automated techniques to reduce regulatory burdens, streamline enforcement, and improve staff review and examination functions. Examples include the reduction of hard copy requirements for filings and the providing, through the private sector, of a financial information library for use by the investing public.

Question: In 1982, the Commission initiated 251 enforcement cases for violations of securities laws. What do you expect will be the total for 1983, and the projected total for 1984?

Answer: We are approaching the mid-way point of fiscal year 1983. Difficult issues and complex factual situations make it impractical to predict the number of enforcement actions that the Commission will initiate in the 1983 and 1984 fiscal years. However, in each of the two fiscal years the Commission will continue to demonstrate its strong law enforcement presence.

The mix of cases being investigated and prosecuted by the Commission's enforcement staff has changed during the past year. For example, we are now engaged in investigating a great number of cases involving fraud in the disclosure of financial information. These cases are resource intensive, and many require several attorneys and an accountant over an extended period of time.

The Commission's enforcement staff also is investigating a variety of other possible violations of the federal securities laws, including those involving (1) regulated entities (including broker-dealers, investment advisors and brokerage firms), (2) insider trading, (3) hostile battles for corporate control, (4) related party and self-dealing cases, and (5) a variety of other cases involving critical disclosure issues.

The amount of resources necessary to conduct an investigation and prosecute an enforcement action varies with the complexity of the facts, the difficulty of the legal issues, the number of investors and defendants involved, the degree of cooperation on the part of persons investigated, the availability of needed evidence, the willingness of defendants or respondents to enter into settlements that avoid protracted litigation and many other factors. The cases under investigation and in litigation are demanding a great commitment of manpower despite efforts to increase our efficiency and effectiveness.

I expect fiscal year 1983 to be a good year in the Commission's law enforcement program. We continue to have a vigorous and strong enforcement program that addresses all areas within our responsibilities, but it will be difficult to duplicate the record we achieved during 1982.

Question: In 1982, the Commission fees deposited in the Treasury equalled 94% of the SEC budget. What will be the projected fee collection rates in fiscal years 1983 and 1984?

Answer: Fee estimate assumptions (also see attached chart) -

Registration of securities under the 1933 Act: The Division of Investment Management does not expect the rapid increase in the size of money market funds to continue. Therefore, while the estimated fees for FY 1983 are high primarily due to the number and size of money market funds in calendar 1982, the fees for FY 1984 from these funds are estimated to be about the same as in FY 1979, the last FY before money market funds became a potent force in the investment company industry. This reduction will be partially offset by an expected increase in the number of registration statements received from companies registered under the 1933 and 1934 Acts.

Securities transaction fees: The increase of fees is based on a continuation into future years of the annual rate of growth in the value of trading experienced during the period 1972 through 1981.

Other filings and reports: A modest growth of 3% in FY-83 and 2% in FY-84 is projected for filings and reports for which fees are collected.

Non-NASD brokers and dealers: The increase of fees in 1983 is due to a computer induced workload delay in processing FY-82 fee checks. This delay resulted in FY-82 fees being deposited in FY-83. After compensating for this delay, future fee collection estimates should remain stant at about $650,000.

STATEMENT OF FEES

Source of Fees	5 Months 1982	1982 Actual	5 Months 1983	1983 Estimate	1984 Estimate
Registration of securities under the Securities Act of 1933	$19,684,694	$52,930,449	$25,872,613	$69,569,000	$66,029,000
Securities transactions under the Securities Exchange Act of 1934	19,174,366 1/	19,645,193	24,258,509 1/	24,708,000	27,293,000
Other filings and reports	1,549,542	5,199,158	1,589,434	5,366,000	5,494,000
Non-NASD brokers and dealers	128,445	465,939	290,062	727,000	650,000
Total	$40,537,047	$78,240,739	$52,010,618	$100,370,000	$99,466,000
Appropriation		$83,306,000		$89,340,000	$91,935,000
Fees as a percentage of appropriation		94%		112%	108%

1/ Represents actual fees to be collected from exchanges. Does not include fees from Broker-dealers which are not available for the comparable period in FY-83.

Note:
Money Market Funds -
Number Registered thru 5 months of 1982 - 50
thru 5 months of 1983 - 26
Dollar amounts registered are not available for this time period.

Question: The Commission has begun efforts to reduce paperwork and unnecessary regulations by integrating reporting requirements, especially for financial filings by corporations. What progress has been made in this regard, and what savings can be expected by the SEC and private industry?

Answer: On February 24, 1982, the Commission announced the adoption of the final phase of its program to integrate the transaction-oriented disclosure system of the Securities Act with the continuous disclosure system of the Securities Exchange Act.

On November 19, 1982, the Commission adopted the foreign issuer integrated disclosure system.

One of the goals of these actions was to reduce burdens on registrants while, at the same time, ensuring that investors are provided with meaningful information on which to base investment decisions. At present, it is estimated that integration will save corporations (and, therefore, their shareholders) $350 million per annum, without compromising full disclosure to investors.

The SEC also saves review and interpretative time through the elimination of overlapping and duplicative rules; adoption of short forms, which incorporate data from others, meaning only one document need be reviewed instead of two or more; elimination of subsequent amendments in shelf offerings; all of which when compared to a non-integrated system, result in the savings of several staff years.

Question: The Office of the Chief Economist is one area of the budget that is proposed for an increase, from four staff years to eight. What are the activities of this office and why should it be increased when the rest of the Commission is being reduced?

Answer: The Office of the Chief Economist was organized to provide the Commission with a small, highly skilled staff of economists specializing in the economics of government regulation and financial markets. This staff will have training in independent scientific research and experience in the latest theoretical developments and empirical techniques. Its staff understand the relationship between law and economics in formulating Commission rules and regulations.

It is not possible for the current number of staff in the Office of the Chief Economist to provide economic analyses on all but the most critical rule decisions coming before the Commission. Therefore, in order to provide the Commission with economic analyses for the issues which comes before it, as well as to perform the larger statistical research studies on economic issues which are of interest to the Commission, it will be necessary to add qualified staff in FY 1984.

These additional staff for the Office of the Chief Economist do not, however, result in an increase of staff in the Economic and Statistical Research program. The office is a newly created sub-function of the program. The program itself has been proposed to receive a 6.3 percent reduction of staff years in 1984.

Question: The Commission has an approved staffing level of 2,021 for fiscal year 1983. However, approximately 1,892 are currently employed full-time. If the proposed budget cut of 125 positions is approved, will the current employee staffing level receive a commensurate reduction?

Answer: Yes, in 1984 the Commission will have a 125 position reduction and 117 staff year reduction.

	1982	1983	Change	1984
Approved Staffing	2,021	2,021	(125)	1,896
Employed Full-Time	1,853	1,892	(117)	1,775

(Clerk's Note: The following questions submitted by request.)

In the last few years you have substantially changed the disclosure system that has served investors for over 40 years. These changes supposedly permit corporations to sell securities faster at less cost and to report fewer repetitive details included in other filings at the Commission.

Question: Upon what factual basis do you conclude that you have not compromised investor confidence in the disclosures being made?

Purpose: It is too early to determine the effect on investors and any basis for this conclusion would be based on the opinion of interested parties. The administrative procedures used in Commission rulemaking does not encourage investor input.

Followup: What factual basis do you have that this process has reduced corporation cost to sell securities?

Answer: The integrated disclosure system is the culmination of years of effort to rationalize the disclosure provisions of the Securities Act of 1933 ("Securities Act") and the Exchange Act. Various Commission and private sector groups have urged development of an integrated disclosure system for quite sometime, including the Wheat Report in 1969 and the Advisory Committee on Corporate Disclosure in 1977.

The Securities Act is essentially transaction oriented — focusing on full and fair disclosure on the special occasion of a public offering, while the disclosure framework of the Exchange Act focuses on continuous disclosure. The effort to integrate the transaction oriented framework of the Securities Act and the status oriented framework of the Exchange Act largely began with the passage of the 1964 amendments to the Securities Acts. Prompted by these amendments, which made all issuers of a certain size, as well as those issuers selling securities, subject to the continuous reporting requirements of the Exchange Act, the Commission strengthened the Exchange Act disclosure system by upgrading the quality, currency and accessability of periodic reporting. This made sense because of the predominance of the secondary market over the primary issue market. As the Commission bolstered the Exchange Act disclosure system, the elimination of unneeded disclosure under the Securities Act became the next logical step.

The market experience since the final phase of the Integrated Disclosure System was put into place (the last rules were adopted in March 1982 and effective in May 1982) suggests no lack of investor confidence in the disclosure in offering documents. In fact, this period has been marked by an unprecedented volume of trading in the secondary market as well as a resurgence of activity in both the new issue and repeat public offering areas.

One of the goals of the Commission's integrated disclosure program was to revise or eliminate overlapping or unnecessary disclosure and dissemination requirements wherever possible, thereby reducing burdens on registrants while at the same time ensuring that security holders, investors and the marketplace are provided with meaningful, nonduplicative information on which to base investment decisions. While the cost savings generated by such wide-ranging and complex changes in registration and reporting requirements are difficult to quantify, it is possible to estimate cost savings brought about by the integration program based on figures gathered from private sector professionals responsible for compliance with SEC disclosure requirements for purposes of the Commission's submissions under the Paperwork Reduction Act; reports in the financial press; data generated through staff monitoring efforts; and private sector studies. Thus, the estimated savings resulting from the Integrated Disclosure System reflect anticipated cost savings from: (1) new registration Forms S-1, S-2 and S-3, with expanded eligibility for short forms and streamlined procedures and disclosure requirements; (2) amendments to Form S-8 for the registration of employee benefit plans, which eliminated much of the disclosure that formerly was required and eliminated the need for post-effective amendments by providing for automatic updating through incorporation by reference; (3) new Form S-15, a simplified form for certain types of business combinations, which utilizes existing annual reports and therefore is much less expensive to prepare than other available forms; (4) reduction in reporting burdens for Forms 10, 8-K and various other forms as a result of the streamlining of disclosure requirements; (5) the availability of short registration forms for foreign issuers, as a result of adoption of an integrated disclosure system for foreign issuers; (6) new Rule 415, which eliminates the necessity of filing separate registration statements for multiple offerings and permits issuers to go to market quickly according to financing needs and market conditions; and (7) reduction in underwriting spreads since Rule 415 has been in effect.

Shelf Registration

One of the changes in the disclosure process involves permitting "shelf registrations" by large corporations. Shelf-registration permits corporations to register their securities and wait for the best timing to issue the securities. At the appropriate time the corporation can quickly update their disclosures and sell the securities to underwriters and investors. While this process is very attractive to corporations, there are dangers that the buyers will not receive accurate information.

Question: How is the Commission assuring that underwriters, under competitive pressures, are exercising the due diligence in assuring that the disclosures or representations are accurate?

Purpose: Accountants and underwriters have expressed concern that they do not have time to review the filings updating registration to assure that it is complete.

Answer: The quality of disclosure, and the impact of due diligence thereon, is not a function of Rule 415 but, rather, relates to the Integrated Disclosure System. Under that system, the disclosure requirements imposed on companies making public offerings of securities vary depending upon their size and reporting history. The extent to which Exchange Act reports may be relied upon to take the place of reiteration of the same information in the prospectus varies accordingly. New issuers must present complete information about themselves and the offering transaction in the prospectus itself. Companies who have a 3-year reporting history, but who are not necessarily well followed in the marketplace, must present full information about the offering transaction together with streamlined information about themselves in the prospectus. Those larger companies who are well followed in the marketplace (as demonstrated by $150 million float or $100 million float and annual trading volume of 3 million shares) may use a prospectus presenting full information as to the offering transaction and relying on incorporated Exchange Act reports for the company oriented information.

Due diligence practices may have changed with respect to these large, well-followed companies that may use short-form registration. It should be noted, however, that such companies make high quality disclosure on a continuous basis pursuant to their reporting obligations under the Exchange Act, not just at such time as they offer new securities to the public. In this regard, the Integrated Disclosure System improved the quality of continuous Exchange Act reporting in a number of respects including (1) the identification of a uniform package of information critical to all investment decisions and the requirement that such information be included in Exchange Act reports and prospectuses alike; and (2) commensurate with the enhanced role of Exchange Act reporting in the Integrated Disclosure System, the requirement that a majority of the issuer's board of directors sign the annual report on Form 10-K. The shift of focus to Exchange Act reports has been accompanied by shifting due diligence procedures to a continuous dialogue that some have indicated results in broader and more on-going due diligence than was previously the case. In any event, investment bankers have testified that "however the competitive juices might flow, we would be unwilling to do something where we did not have the opportunity to do what we thought was appropriate due diligence." (Shearson)

Executive Compensation

One of the disclosure requirements deals with management remuneration. The Commission rules require that all direct and indirect remuneration, whether or not contingent, be disclosed and prescribes a specific format for its disclosure. The Commission proposes to change its rules because these requirements have not been fully successful in communicating understandable information to investors. To improve communication the Commission proposes to reduce the number of managers included in the disclosure, include in a schedule only that remuneration paid directly that year and permit contingent payments, such as stock options, to be described in a separate narrative.

Question: What factual basis do you have that this information is not understood or is misused?

Purpose: In troubled times corporate managers are concerned that unemployed stockholders or stockholders receiving reduced dividends will be upset with their remuneration, especially stock options.

Followup: How do you assure investors are adequately represented in proposals such as this in your administrative proceedings?

Answer: The Commission's remuneration disclosure provisions were substantially revised in 1978 to require that all forms of remuneration be quantified and presented in a tabular format. Based on our review of the disclosures elicited by the current requirements, it appears that they have not been fully successful in communicating information in a manner that is easily understood by investors and that provides an accurate account of amounts actually paid. The remuneration table currently includes many different types and forms of remuneration, covering many time periods, ranging from salaries to amounts accrued under various pension plans the receipt of which is dependent upon continued employment to negative amounts due to a decrease in the market price of stock that has been granted subject to restrictions. Thus, it may be misleading to investors to present this information in a manner which encourages the aggregation of dissimilar types of remuneration.

Moreover, the goal of making it possible to compare the cost of management of various companies through uniform disclosure requirements has not been achieved. In this regard, two articles in business periodicals reporting executive compensation, based on information disclosed in proxy statements, reported different amounts for some of the same executives. See Business Week, May 10, 1982 at 70-102; Forbes, June 7, 1982 at 74-100.

As is customary in all rulemaking proceedings, the Commission takes a number of steps, consistent with the Administrative Procedure Act, to facilitate investor participation. Releases proposing rule changes are published in the Federal Register and generally mentioned in business periodicals and newspapers. Comment periods of at least sixty to ninety (and sometimes 120) days are provided. In addition, future Commission rulemaking actions are announced in the Agenda of Federal Regulations published biannually by the Office of Management and Budget. It has been the Commission's experience, however, that few investors participate in our rulemaking proceedings. Accordingly, the Commission has taken additional measures over the past several months in an attempt to increase the amount of input we receive from investors, as well as other types of users of our disclosure documents. Last November, the Commission conducted its first Research Forum, to which approximately 45 representatives from various types of users of our filings, including shareholder groups, were invited. The purpose of the Forum was to elicit users' views as to ways in which the Commission's financial, non-financial and proxy reporting requirements could be made more meaningful and useful. At the same time, the Commission emphasized to the attendees the importance of providing the Commission with their views on proposed amendments and solicited suggestions from them as to ways in which we could make it easier for the public to comment.

Another recent action that the Commission has taken to increase investor participation is to include an "Executive Summary" at the beginning of rulemaking releases that provides a brief and non-technical summary of the amendments contained in the release. It is hoped that the Executive Summary will make it easier for investors to understand the Commission's proposals and thus provide comments on them.

Finally, the Commission has mailed copies of recent rulemaking releases to persons, including individual investors, who may be interested in providing comments.

Fraud

The request states that since 1979 large increases have occurred in indicators of potential fraud, yet SEC resources devoted to the prevention and suppression of fraud have declined below 1979 levels. In addition, the nature of the issues confronted in an investigation on enforcement action are often novel and complex, requiring greater sophistication and expertise on the part of the staff. In light of this would you please explain:

Question: What action is the SEC taking to ensure that its staff will have the expertise to confront and deal with the novel and increasingly complex issues which surface in investigative and enforcement actions?

Answer: Senior members of the Division of Enforcement meet weekly with the director of the division to discuss cases, problems and developments. The director also visits the regional offices to discuss such matters with regional personnel. In addition, the senior enforcement attorneys from the home office and the Commission's regional offices meet annually at a three day conference to discuss problems which have arisen and to exchange views with respect to needed changes in practices and procedures and developments that require an effective enforcement response. Twice each year, the director meets with the regional administrators to discuss such matters.

The supervisory personnel discuss developments and policy changes with the enforcement staff. In addition, the Division of Enforcement periodically issues memoranda and manuals designed to apprise the staff of policies, practices or developments with respect to particular topics. Significant judicial decisions and legislation are distributed. In addition, the Commission conducts or participates in a number of training programs, which are discussed in a subsequent question, in order to maintain and enhance the knowledge, skills, and professionalism of the staff. Attorneys are expected to utilize these resources in their work.

In recognition of the demands and complexities of financial disclosure, the division has staffed its Office of Chief Enforcement Accountant with experienced accountants with strong backgrounds in auditing. The division has also sought, in recent hiring efforts, to hire attorneys with one or two years of experience, generally in securities or corporate law. In addition, various staff members have developed expertise in particular areas. For example, the Chicago Regional Office has developed expertise with respect to options. (This office recently sponsored a two day seminar on options for other enforcement staff members.)

Question: Describe the training received by enforcement attorneys. How many staff hours are devoted to training each year? How much training does an entry level attorney receive?

Answer: Entry level attorneys attend an annual enforcement training program and are encouraged to participate in various training programs discussed below. The most important training occurs, however, through the management structure in the enforcement program and the supervision that entry level attorneys receive.

The Division of Enforcement conducts or participates in a number of programs designed to maintain and enhance the knowledge, skills and professionalism of the enforcement staff. These include the following:

1. Annual enforcement training programs designed to provide new members of the staff a foundation for their work at the Commission.

2. A distinguished lecturer program, which utilizes the expertise of practitioners in the private sector to help keep the staff abreast of current developments and techniques.

3. A procedural tightness series has been instituted to focus the attention of managers and staff attorneys upon the need for attention to detail and efficiency.

4. A series of periodic discussions of Supreme Court decisions involving the federal securities laws has been initiated.

5. The Commission has purchased a number of video tapes and other audio-visual aids which are used to improve and maintain the knowledge and skills of the home office and the regional office staff.

6. Senior attorneys participate in continuing legal education programs throughout the year which serve to keep both private practitioners and Commission participants abreast of developments in the field of securities regulation.

Question: How did the Commission reduce the case backlog in the Prevention and Suppression of Fraud program? Also, how will SEC ensure that this trend continues?

Answer: The reference to a "case backlog" is not entirely accurate. The figures reflected in our submission as open "cases" include cases under investigation, cases that are being litigated and cases in which enforcement action has been completed, but it is necessary to monitor subsequent developments. Examples of the latter situation include the need to monitor compliance with a court order, pending criminal inquiries or bankruptcy or liquidation proceedings related to a Commission enforcement action. Our inventory of pending investigations is a much smaller number than the total number of "cases."

Beginning several years ago, the Commission placed increased emphasis on conducting investigations, and prosecuting enforcement actions as expeditiously as possible. Greater emphasis was also placed upon more prompt closing of cases in which enforcement action had been completed or where the circumstances did not appear to warrant a future enforcement action. The implementation of the Case Tracking System provided an important method of identifying cases appropriate for closing. The combined effect of these efforts has been a steady reduction in the total number of open cases since 1977.

We will continue to investigate violations of the securities laws and prosecute enforcement actions as efficiently and effectively as possible. We are also considering changes in our recordkeeping procedures which will result in a more accurate indication of our actual inventory of pending investigations than the numbers reported in the past.

Question: What has been the average enforcement caseload per attorney for fiscal years 1980, 1981 and 1982?

Answer: The Commission does not maintain statistics with respect to the average caseload per attorney, because this is not a particularly meaningful figure. As a general rule of thumb, an attorney can be expected to handle two to three cases at a particular point in time.

Differing issues and factual situations make it difficult to make comparisons among investigations and other enforcement actions. For example, the amount of resources necessary to conduct an investigation or an enforcement action which may result from such an inquiry varies with the complexity of the facts, the underlying legal issues, the number of investors and defendants involved, the availability of needed evidence, the degree of cooperation provided by the subjects of the investigation, the willingness of defendants and respondents to enter into settlements that avoid protracted litigation, and many other factors. These factors will affect the number of cases that a particular attorney can handle.

The submission states that the Commission's anti-fraud program led to disgorgement of over $30 million, recission offers to investors of over $50 million and asset freezes to protect investors of over $35 million.

Question: What is the time period covered by these amounts?

Answer: The amounts represent relief ordered by the courts in fiscal year 1982. The data was compiled through a review of litigation releases issued during the fiscal year. Some supplemental data was obtained from direct contacts with enforcement officials.

Question: What portion of each of the above amounts is applicable to fiscal years 1980, 1981, and 1982?

Answer: The amounts represent relief obtained in fiscal 1982. The Commission staff has not compiled similar data for such relief in prior fiscal years, but we intend to continue collecting such data in the future.

Market Regulation

The Glass-Steagall Act has clear distinctions between banking and securities activities. Some view the blurring of the lines between these industries as being due to inaction by their respective regulatory agencies.

Question: Has the Commission denied registration of broker-dealers, investment companies, or others for violation of the Glass-Steagall Act?

Answer: The Commission is not aware of any firm that has applied to register as a broker-dealer and that has been found to have violated the Glass-Steagall Act by a court or federal agency. The Commission is not, however, authorized to deny the registration of broker-dealers for violations of the Glass-Steagall Act. The Commission is responsible for enforcing the federal securities laws while other federal agencies have enforcement responsibilities for the Glass-Steagall Act. Under the present regulatory scheme, set forth in Section 15(a) and (b) of the Securities Exchange Act of 1934, the bases for denial of broker-dealer registration include willful misstatements in documents required to be filed with the Commission, conviction of certain felonies and misdemeanors, injunction from engaging in certain capacities, violations of the securities laws, or aiding and abetting or failure to supervise with a view to preventing violations of the securities laws.

Question: How many brokerage houses are owned by corporations that have subsidiaries or affiliates that are also banks? Also, please identify these firms.

Answer: We are aware of the following affiliations and proposed affiliations between banks or bank holding companies and brokerage firms:

American National Bank/MPACT Brokers, Inc.
BankAmerica Corporation/Charles Schwab Corporation
Boston Safe Deposit & Trust Co./Shearson American Express, Inc.
Bradford Trust/Bradford Broker Settlement, Inc.
Chase Manhattan/Chase Manhattan Capital Markets Corporation and Rose & Co.
Dreyfus Bank, Lincoln State Bank/Dreyfus Corporation
Fidelity Trust Company/Fidelity Brokerage Services, Inc.
Mutual Bank for Savings and Plymouth, Quincy, and Salem Savings Banks/New England Investment Enterprises
Security Pacific Corporation/Security Pacific Brokers, Inc., Kahn Brothers & Co., Inc., Clifford Drake & Co., Chapdelaine & Co., and RMJ Securities Corp.
Union Planters National Bank/Brenner Steed & Associates, Inc.
Washington Mutual Savings Bank/Murphy Favre, Inc.

Market Surveillance

The Intermarket Surveillance Group (ISG) has developed separate reports relating to trading in listed stocks and options. These reports can be produced in microfiche, hard copy or tape form. However, the Commission has stated that these reports lack utility as a means of detecting inter-market trading violations due to their lack of integration of the stock and option activity. In order to be used for substantive analysis, each SRO would have to process the data, sort out which is irrelevant, store that which is relevant and integrate the data into their individual surveillance system. This is very difficult because most exchanges receive the reports in microfiche instead of the ADP tape format. As of October 1, 1982, no SRO has implemented such reprocessing or programming.

Question: What action is the Commission taking to have the ISG develop system outputs that can be readily used in an ADP format by the SRO?

Answer: As will be noted in the Fifth MOSS Report, to be delivered April 1, 1983, over the last six months, several of the SRO participants, notably the Amex, CBOE, NASD and NYSE have taken affirmative steps to integrate the consolidated ISG data into their individual automated surveillance systems. In addition, the Phlx and PSE are in the process of reviewing the feasibility of line transmission of the data, for the purpose of facilitating integration of the data in their systems. Furthermore, the NYSE is developing an automated system based upon ISG data, which will allow analysis of both stock and related option activity. The NYSE has repeatedly expressed its willingness to share this system with other SROs, and in fact, in the coming months, the Amex will take delivery of equipment that will enable it to access the NYSE system on a test basis. The Commission has strongly supported and encouraged the SROs in these endeavors.

Market Oversight and Surveillance

In August 1982, the Intermarket Surveillance Group (ISG) reported that its participants had agreed that the development of common exception reports would, in many cases, duplicate existing or planned surveillance capabilities at each SRO and would not significantly add to the quality of intermarket surveillance systems or procedures planned or already in place. It would appear that the ISG is saying that a MOSS type system is not needed. Yet, the Commission has referred to the ISG for developing a system that could be used in place of MOSS. The Commission has requested that the ISG submit a detailed report on its August 1982 position.

Question: How does the Commission explain this apparent conflict between the ISG's August 1982 report and its commitment to the Commission to implement an effective intermarket surveillance system so that MOSS would not be needed?

Answer: There was no conflict between the ISG's August 1982 report and the ISG's commitment to the Commission to implement an effective intermarket surveillance program so that MOSS would not be needed. In the August report, the ISG stated that it had decided not to develop a centralized data base to which common exception criteria could be applied. While the report did not set forth the specific elements of an alternative plan for an SRO intermarket surveillance program, the report contained no suggestion that the SROs had abandoned their goal to implement an effective intermarket surveillance program.

Question: Did the ISG submit a report to the Commission that completely resolves any questions that the Commission's staff has about the ISG position on common exception reports?

Answer: In the ISG's November 1982 and March 1983 Status Reports to the Commission, the ISG has presented a detailed outline for the development of an integrated and coordinated intermarket surveillance program. This outline recognizes the importance of complete audit trail data and the need to incorporate this data, once it becomes available, on a consolidated basis, in the automated surveillance systems of the SROs. The Commission believes that once these tasks are completed, in 1984, the SROs will be able to conduct effective surveillance of intermarket trading, and that common exception reports will not be necessary.

In its December 1981 status report, the Intermarket Surveillance Group (ISG) stated that it was imperative that the basic intermarket surveillance program be in place at each self-regulatory organization (SRO). In a March 1982 status report, the ISG reported that it was agreed that basic minimum surveillance procedures would be required at each SRO to make appropriate use of the new shared intermarket data. These statements indicate that the SROs are being placed in an oversight relationship vis-a-vis each other. Yet, the SROs have no authority except moral persuasion to insure that all SROs maintain the minimum intermarket surveillance program.

Question: What action is the Commission taking to insure that each SRO maintains the minimum intermarket surveillance program?

Answer: The Commission is taking several steps to insure that each SRO maintains a minimum intermarket surveillance program. First, under the terms of the ISG's operating agreement, the SROs must report to the ISG any changes in surveillance procedures that would result in reduced surveillance. Commission staff regularly attends ISG meetings and will therefore have notice of any such changes and an opportunity to comment. Second, in connection with its routine oversight inspection program, the Commission staff regularly reviews SRO intermarket surveillance programs. Finally, particularly over the last six months, the staff has been using the MOSS pilot to develop sophisticated automated programs to audit SRO intermarket surveillance efforts. These programs are enhancing the comprehensiveness and efficiency of the oversight inspection process.

National Market System

In passing the Securities Acts Amendments of 1975, Congress gave the Commission broad discretionary powers to oversee the development of a national market system for trading securities. The Amendments established a statutory scheme clearly granting the Commission broad authority to oversee the implementation, operations and regulation of the national market system. In May 1982, the Commission proposed an order exposure rule for the national market that was based on securities industry suggestions. The Commission proposed the rule because some industry participants wanted to address concerns that could arise from the internalization of orders to buy or sell securities. Internalization is defined as the withholding of retail orders from the market centers for the purpose of executing them in-house without exposing the orders to buying and selling interest in other market centers. The proposed rule was an attempt to solve the internalization issue by defining order exposure requirements. In December 1982, after reviewing the public comments from the May 1982 proposal, the Commission reproposed another order exposure rule.

Question: What factual basis, including actual adverse effects, has the Commission developed that shows that an order exposure rule is necessary for the national market system?

Purpose: While the Commission has issued two proposed order exposure rules, it has not reached a conclusion concerning the necessity or ultimate advisability of mandating order exposures. Moreover, the Commission has not observed any objectively, identifiable negative impacts of internalization that would justify imposition of an order exposure rule. The Department of Justice also believes that the rule proposals would result in few, if any, practical benefits for the developing national market system.

Answer: The Commission has not reached a conclusion on whether an order exposure rule is necessary for the national market system. Rather, the Commission has issued two releases proposing for public comment rules that would address the order exposure area. The Commission has not taken a position on the ultimate advisability of adopting a rule; indeed, the Commission specifically has requested commentators to address the issue of whether any rule is necessary. In its latest release on order exposure, issued in December, 1982, the Commission did state that while it had not reached a conclusion on the necessity or ultimate advisability of an order exposure rule, it was preliminarily inclined to conclude that if such a rule were to be adopted, it should be adopted in an attempt to obtain the potential benefits of order exposure. The Commission continued that, to date, it had not observed any objectively identifiable negative impacts of internalization on Rule 19c-3 trading that would justify imposition of an order exposure rule. Thus, in determining whether to adopt an order exposure rule, the Commission will be balancing the potential benefits of order exposure by all markets, such as increased opportunities for best execution, enhanced interaction of orders, and additional opportunities for competition, against the potential negative impact the mechanics of order exposure might have on the markets.

In 1975, Congress required that the Commission take the necessary steps to create a national market system using modern ADP and communications technology. In 1981, the Cincinnati Stock Exchange had the most rapid growth of the exchanges, with its volume increasing 19.2 percent. Cincinnati is also the most automated stock exchange and is referred to by some as being the "black box" because a computer brings the buyer and seller together without the need for the physical stock exchange floor.

Question: Does the rapid growth in the volume of the Cincinnati Stock Exchange indicate that the black box method of trading is gaining widespread acceptance and may be the start of the decline in the use of the physical stock exchange floor as we know it today?

Answer: Over the past several years there has been a marked increase in the volume of securities transactions executed on the Cincinnati Stock Exchange ("CSE"). For example, as noted, in 1981 the CSE volume rose 19.2 percent from the previous year. In addition, during the third quarter of 1982, CSE share volume reached an all-time high of 13.7 million shares. The increase in CSE volume generally results from two factors. First, there has been a gradual increase in the number of CSE participants. Second, in 1981, the CSE was linked through the Intermarket Trading System ("ITS") to the other participating stock exchanges. The ITS has allowed the CSE, for the first time, to attract order flow directly from other exchange floors when it is displaying a superior quotation. 1/

Although this growth of the CSE has been significant, the CSE remains an extremely small factor in the markets for listed securities and is clearly not a near-term threat to the use of physical stock exchange trading floors. The CSE continues to account for less than two percent of the consolidated volume in stocks traded through the CSE's automated trading system. In addition, only 13 broker-dealer firms are participating as market makers or order entry firms in the system. Furthermore, the CSE currently is trading through its automated system only 127 of the more than 1600 stocks listed on the New York Stock Exchange.

The New York and American Stock Exchanges have both lacked an adequate audit trail for equity transactions. The Commission has been calling for the development of an adequate audit trail for many years. The absence of an audit trail has had a debilitating impact on the Commission and SRO efforts to develop effective intermarket surveillance programs. Currently, the New York Stock Exchange has set a January 1985 date to complete an audit trail program. The NYSE has had ample opportunity to develop an audit trail, having already missed a number of deadlines.

Question: When is the Commission going to take formal enforcement action against the Exchanges for their lack of an effective audit trail?

Answer: The Commission has been closely monitoring the progress of the NYSE and Amex in developing audit trails. While at times progress has been slow, the Commission recognizes that this is a complex process necessarily linked to the exchanges' ability to prepare for high trading volume and other changes in the securities business. Although the NYSE audit trail based on floor-derived data will not be in place before 1985, the exchange plans to implement a complete audit trail based on cleared trade data by May 31, 1983, and to be employing audit trail data in its surveillance system by September 1983. The Amex, because many of its members are also NYSE members, plans to use the same general plan as the NYSE, with some minor modifications. The Amex expects to begin implementation of its audit trail in mid-summer 1983, with a complete audit trail to be in place by the end of 1983. In light of the substantial efforts made by both exchanges in accomplishing these difficult and important goals, enforcement action by the Commission is not necessary or appropriate.

In June 1982 you announced the results of your lost and stolen securities program for 1981. For that year 287,000 securities were reported as lost and 3,232 reported as found, a very low number. Moreover, to find these few securities, banks and securities organizations had to check over a million securities with the program.

1/ The CSE quotations indeed are competitive. In fact, it is the only regional stock exchange that imports more order flow through the ITS than it exports.

Question: With so few securities being found, are there modifications to the program that would increase the number of securities found?

Answer: Formal modifications to the Lost and Stolen Securities Program (the "Program") do not appear to be necessary at this time. Although the number of suspect securities being found is low relative to the number reported lost, the Commission continues to believe the Program is successful and cost-effective. The 3,232 securities certificates identified as suspect in 1981 represented a 100 percent increase over 1980. Since a significant time lag often exists between reports of securities thefts or losses and inquiries with respect to those securities (i.e., reappearance of those certificates in interstate commerce), a significant increase in the number of suspect securities identified from year to year indicates the Program is accomplishing Congressional objectives. The Commission believes that compliance with the existing notification and inquiry procedures will result, over time, in increased numbers of suspect securities being identified. As Congress noted in establishing the Program, stolen securities certificates may not surface for up to 10 years after their initial loss. The importance of continuing compliance with the reporting and inquiry requirements of the Program, therefore, cannot be overstated. Only through timely reports and inquiries from all Program participants can suspect securities be identified. To achieve maximum benefit from the Program since its inception in 1977, the Commission encouraged participant reports and inquiries through information releases, inspections, and conversations with the self-regulatory organizations and the federal bank regulatory agencies. Both the Commission and the Securities Information Center continue to educate the financial industry concerning the benefits of timely and active participation in the Program.

The FBI, in addition to the SEC, has an effort to find stolen securities through a computerized listing of stolen securities.

Question: What procedures does the SEC have to assure that there is a complete exchange of information between these programs? Are the computers involved in these programs in some manner linked? If not, what are the difficulties in linking the computers?

Answer: The FBI's National Crime Information Center's ("NCIC") data base of stolen property, including securities, serves a very different purpose than does the computerized data base of missing, lost, stolen and counterfeit securities maintained by the Commission's contractor, Securities Information Center ("SIC"). As we understand the NCIC system, only law enforcement officials may report thefts to, and inquire of, NCIC's data base; financial institutions, primarily banks, brokers, transfer agents and clearing agencies, cannot use that data base except through law enforcement officials, a tedious and time consuming task. Those financial institutions, however, can use SIC's data base and are able to obtain expeditiously information regarding whether securities in their possession have been previously reported into SIC's system as missing, lost, stolen or counterfeit by other financial institutions. In addition, SIC's data base is more comprehensive in scope than NCIC's data base. While NCIC's data base consists only of reports of "stolen" securities, SIC's data base also contains reports of securities that are "missing" or "lost."

This is not to suggest that NCIC's data base has been of little use to the Commission's Lost and Stolen Securities Program ("Program"). In May 1978, the Commission authorized SIC to exchange with NCIC information regarding securities losses. Toward that end, NCIC provided SIC with magnetic tapes containing NCIC's entire stolen securities data base up to October 1977, when the Program's reporting requirements became effective for financial institutions. By March 1979, when the NCIC data base of about 10,000 stolen certificates was fully merged into SIC's data base, SIC's data base contained important historical data relating to "pre-program" securities thefts. That historical data has been particularly valuable because, on occasion, stolen securities have remained underground for several years before their negotiation was attempted. Since 1979, however, when the data merger was completed, updates to the initial SIC data have not appeared to be useful. Among other things, the FBI has indicated that SIC's data base of stolen securities is more complete than NCIC's data base.

Currently, we understand that the FBI often relies on SIC's data base, which it can freely access by telephone. The FBI has represented that the up-to-date SIC data base, the almost immediate SIC response time, and the important information gained from the FBI's inquiry (including the security's identifying characteristics, the date of the loss, and the name, address and telephone number of the reporting financial institution) enables the FBI to obtain meaningful "leads" quickly. In addition, SIC routinely provides the FBI with information regarding lost or stolen securities whenever any inquiry of the SIC data base by any financial institution matches ("hits") any report in the data base. When such a hit occurs, SIC telephones the FBI with data relating to the reporting institution, the inquiring institution and the subject security. We understand that this procedure has enabled the FBI to contact the involved institutions promptly.

We believe that SIC's system and the FBI's NCIC system are linked, in effect, through the various routine informational exchanges discussed above. Although those exchanges do not take place through a computerized link, we believe, based on existing information, that they serve as a cost-effective substitute for such a link. The FBI has been able to obtain up-to-date data immediately without requiring an automated interface. Moreover, because SIC personnel have indicated to us that the two systems' differing data fields and software and hardware designs would make an effective automated link difficult, we believe that the costs associated with such a link would be excessive in view of any limited incremental benefits that currently could be anticipated.

The Securities Investor Protection Corporation liquidated 3 broker-dealers in 1980, 10 in 1981 and 8 in 1982 and paid out $81 million of its insurance fund. Since the purposes of examinations by SEC and the self-regulatory organizations are to detect poor accounting and management practices that could lead to bankruptcy, the number of liquidations could be a measure of the effectiveness of broker-dealer examinations.

Question: (a) Did the Commission detect the perilous financial condition of these 21 broker-dealers before liquidations were imminent?

Answer: During 1980-82 the perilous financial conditions of 23 broker-dealers were discovered in a variety of ways by the Commission prior to liquidation. In eight instances, the Commission had been monitoring the broker-dealer's financial condition and operations prior to SIPC filings because of the nature of the firms' securities business, e.g., substantial business in penny stocks and speculative issues. One device used to detect potential problems at these firms was the review of their financial reports. The Commission's regional offices are responsible for reviewing the monthly and quarterly reports of SECO broker-dealers, as well as the annual reports of all broker-dealers. (With the exception of 500 SECO broker-dealers, it is the responsibility of self-regulatory organizations to review broker-dealers' monthly, quarterly and annual financial reports.) In 1982, the regional offices reviewed a total of 7,932 broker-dealer financial reports. In eight other instances, problems were discovered by the Commission as a result of customer complaints.

During special review programs initiated by the Commission's staff, which involved municipal and discount securities firms, serious financial problems were detected at three broker-dealers prior to SIPC filings. In addition, the perilous financial conditions of two broker-dealers were discovered during a routine SECO examination and a routine oversight examination. The liquidation of Bell & Beckwith in 1983 was also filed subsequent to the oversight examination in which the problems were detected. Finally, financial problems were discovered at one firm as a result of an IRS referral.

None of the above instances includes the number of broker-dealers that were liquidated, without SIPC filings, based on financial problems detected by the Commission.

Question: (b) Once a broker-dealer is detected as being in financial trouble, how does the Commission monitor its activities to

- assure identified remedial actions are taken?
- assure investors are being protected against fraud by desperate broker-dealers?

Answer: When the Commission becomes aware of information from any source, such as periodic financial reports, indicating that a firm may be in or approaching potentially serious financial or operational difficulties, highest priority is given to scheduling an examination promptly. Broker-dealer violations detected during an examination result in at least a deficiency letter being promptly sent to the broker-dealer, from which the staff requires a written response explaining the remedial action taken or to be taken by the firm. Subsequent examinations of the firm are intended, in part, to confirm that such remedial action was implemented.

In more serious cases, such as those involving net capital or customer safekeeping violations, additional action depends on the nature and gravity of problems found at the firm. Any broker-dealer found to have had a net capital deficiency or safekeeping violation is required to file a FOCUS (financial) report with the Commission within 15 calendar days after the end of each month until three successive months show that the deficiency has been corrected. No broker-dealer is permitted to conduct business unless and until it is in compliance with those rules. If an examination of a broker-dealer reveals that the firm is conducting business while in violation of the net capital or safekeeping rules, the Commission may seek a temporary restraining order to prevent the firm from further engaging in business activities.

To further assure the protection of investors, the Commission notifies the appropriate self-regulatory organization of which the firm is a member of financial or operational problems discovered. These organizations include such broker-dealers in their special "closer-than-normal" monitoring programs.

Recent changes to net capital rules have decreased by $500 million money held as reserve to meet customer demands. This money can be invested profitably by brokerage houses or it can hasten impending insolvency by bad investments.

Question: (a) Are there restrictions on how this money may be invested? If so, what are the restrictions?

Answer: There is no simple answer to this question. The net capital rule does not impose any direct restrictions on how a broker-dealer may invest its assets. It does, however, impose indirect restraints. It is appropriate to discuss the net capital concept at this point.

Net capital is a term of art which can be defined as the net worth of a broker or dealer from which is subtracted the value of the broker-dealer's illiquid assets and prescribed percentages of marketable securities owned by the broker-dealer. The rule in effect requires a broker or dealer to have one dollar of "liquid assets" for each dollar of broker-dealer liabilities. In addition, for those firms on the alternative method of calculating net capital, it requires that a broker-dealer have an additional two cents of liquid assets for each dollar of liabilities as a cushion against unanticipated events. The rule does not require specific reserves nor does it restrict directly how the broker or dealer's money may be invested. It allows the broker or dealer to invest its capital as it deems most prudent, so long as it meets the net capital requirement. However, the rule restricts indirectly a broker-dealer's investments by assessing charges on its investments, which range from 1/8 of 1% for certain short-term securities or money-market investments to 100% for illiquid assets. A broker-dealer may invest in speculative securities or undertake other speculative activities only if it has other liquid assets to offset the charges required for the activities.

Question; (b) To what extent has this lower net capital increased the profits of the brokerage houses or lowered the costs of investors?

Answer: There is no presently available data to justify a firm conclusion on the extent to which the lowered net capital requirement has increased the profits of broker-dealers. However, the lower requirements have allowed broker-dealers to invest capital in a manner deemed most prudent by them. Coincidentally, profits have increased for retail and investment banking firms.

A study of 261 firms doing a securities business in the first three quarters of 1982 and computing their net capital under the alternative method showed that almost $400 million in regulatory capital was freed up in the third quarter as a result of the lower net capital requirements. This $400 million in regulatory capital that firms were formerly required to maintain in the second quarter of 1982 was available to broker-dealers for other business purposes. It appears as a result of the lower capital requirements, firms have been able to expand their customer business (and related revenues) without a proportionate increase in capital. To the extent that a broker-dealer has not borrowed subordinated capital to support its net capital which would have been required before the net capital amendments, its profits could be said to have increased by the net interest expense which the broker-dealer would have incurred because of the borrowing. There is no evidence to support any conclusion as to whether the costs to investors have been lowered. In the normal course of events, it would seem that a lower requirement should result in more competition thereby resulting in lower overall costs.

Question: (c) What evidence do you have that the changes in net capital would not affect broker failures or the adequacy of SIPC reserves?

Answer: The reduction in net capital requirements was a calculated regulatory risk based on the Commission's experience which indicated that the prior requirements were too high in light of the changes in the securities industry since 1975 and the expanded surveillance efforts of the self-regulatory organizations. In that regard, the Commission, in its adopting release, stated:

> "Since 1975, the year the present net capital rule was adopted, brokers and dealers have exhibited a willingness to commit their capital to back office improvements. Brokers and dealers have improved their ability to handle, without bookkeeping or other operational difficulties, heavy trading volume. Their inability to do this in the 1968-1970 period was an important factor in the demise of many brokers and dealers. Moreover, most brokers and dealers that compute net capital using the alternative method clear significant portions of their business through clearing agencies which reduces their exposure to losses and increases their efficiency. In addition to these operational improvements, the Commission and self-regulatory organization surveillance programs have been upgraded and the NYSE and the NASD have indicated that they intend to improve their surveillance techniques further. Perhaps of equal importance is that the early warning rules of the Commission and the self-regulatory organizations will be set significantly above the 2% minimum now adopted. Based on these factors and the protections of Rule 15c3-3, as well as the Commission's concern that there should be no unwarranted capital requirements to protect investors, the Commission in its judgment believes that a reduction from 4% to 2% is appropriate. The reduction will enable firms to reallocate capital without creating undue risks to investors."
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> See Securities Exchange Act Release No. 18417 (January 13, 1982) at p. 15-16, 47 Fed. Reg. 3512 (January 25, 1982) at p. 3514.

We understand that the Comptroller of the Currency recovers the costs associated with supervising the transfer agent function of national banks.

Question: Why doesn't the Commission's proposal contain legislative language that would accomplish such an end?

Answer: Historically, the Commission has not sought to charge fees to cover the costs of examination of the various entities regulated under the Securities Exchange Act of 1934 (e.g., registered broker-dealers, national securities exchanges or national securities associations). Such oversight programs under the Securities Exchange Act are carried out in the public interest and for the protection of investors and the industry at large and their costs have been recovered from more generalized revenue sources. Some have nevertheless argued that the costs of those programs should be borne by narrowly based revenue sources, such as examination fees charged to examinees. Since examination fees post problems as to administrative feasibility and equity, particularly in terms of potentially disproportionate burdens on small firms and relatively high costs of collection, the Commission has not been inclined to propose them.

Public Utility

Question: How many public utility holding companies would be subject to the act if they had not obtained exemption?

Answer: There are presently approximately 90 holding companies exempt from the 1935 Act by rule or order under Section 3(a)(1) and 3(a)(2), the most important of the five exemptive provisions. Section 3(a)(1) provides an exemption for a holding company if it and its public utility subsidiaries are organized in the same state and carry on the utility business substantially in that state. Section 3(a)(2) exempts a holding company that is itself predominantly a public utility company which operates in the state of organization and contiguous states, and which, as a holding company, has one or more relatively small utility subsidiaries.

Followup: Has the Commission verified that all exempt companies are still entitled to their exemption?

Question: The Act concerns interstate public utility holding companies. How are the states able to handle problems covered by PUHCA?

Answer: There are five classes of exempt holding companies, the most important being the exemptions under Sections 3(a)(1) and 3(a)(2), described above. Other exemptions provided in the Act are special purpose in nature and do not involve significant utility operations. The 90 companies exempt under Sections 3(a)(1) and 3(a)(2) are exempt by rule or order. If by rule, the company files an annual statement renewing the claim to exemption, which is reviewed by staff. Those companies exempt by order are generally large companies which are reporting companies under the 1934 Act, whose filings are also reviewed by staff. All exempt companies appear to be entitled to their exemptions.

In addition, no exempt holding company could acquire another utility company without Commission approval under Sections 9(a)(2) and 10, and no exempt holding company with two or more utility subsidiaries can be acquired without Commission approval.

Question: What statutory provisions would prohibit the circumstances leading to passage of the PUHCA from recurring?

Answer: The statutory provisions which would prohibit recurrence of the circumstances leading to the passage of the Act are these:

(1) Sections 6 and 7, which deal with financings and the investment quality of the securities issued by the holding company and subsidiaries;

(2) Sections 9 and 10, which require Commission approval of the acquisition of utility companies, and, in the case of registered systems, the acquisition of non-utility interests as well;

(3) Section 11, which deals with geographic integration and the simplification of holding companies;

(4) Sections 12 and 13, which concern intra-system transactions, limit affiliate transactions to cost, and authorize the Commission to require reporting requirements; and

(5) Sections 14 and 15, which empower the Commission to prescribe rules for the maintenance and preservation of books and records and accounting matters.

Question: Of the 50 states affected, how many support or oppose repeal of the Act?

Answer: There is no actual count of states supporting or opposing repeal. In August 1982, the Executive Committee of the National Association of Regulatory Utility Commissioners ("NARUC") adopted a resolution, by a six-to-two vote, opposing repeal or substantial modification of the 1935 Act. In addition, a recent governor's conference adopted various resolutions related to public utilities, including one opposing repeal or any modification to the 1935 Act that would make easier the formation of regional holding companies as a means of avoiding state regulation.

Question: The Act concerns interstate public utility holding companies. How are the states able to handle problems covered by PUHCA?

Answer: The Executive Committee of NARUC adopted the resolution against repeal because it was felt that the states were not capable of handling the very large interstate holding company systems. The 12 registered holding companies, with combined assets of about $60 billion (Dec. 1981), have 60 operating utility subsidiaries which operate in 24 states. For example, American Electric Power Company, Inc., a registered holding company, operates in Michigan, Indiana, Kentucky, Ohio, Tennessee, Virginia, and West Virginia.

Question: What assistance have you provided state utility regulators in the last five years as compared to the first five years following passage of the Act?

Answer: For the first five years, and some years thereafter, following passage of the Act, the Commission was concerned with the breakup of holding company systems and the disposal of nonrelated properties. This essentially involved a restructuring of the industry into geographically and economically integrated utility systems and liquidation of unnecessary holding companies, as a result of which many companies became independent utility operating companies. Today the Commission assists state commissions in a variety of ways. The Commission approves all financings of the registered systems and subsidiaries, which process in effect limits financing proposals that are presented to state commissions to those that conform with the standards of the Act. In addition, the Commission's Uniform System of Accounts for service company subsidiaries of registered systems, adopted in February 1979, is of great importance to state commissions in rate-making proceedings involving affiliate transactions. From time to time state commissions also intervene in Commission proceedings. In addition, the registered systems are limited to non-utility businesses that are functionally related to the utility businesses. Without the 1935 Act these, and the exempt holding companies, could diversify through separate subsidiaries. State commissions would have no jurisdiction over these ventures.

Investment Company Regulation

A number of proposals are being considered in the Investment Company area, including one that permits a unitary investment fund. Supposedly, this fund would not permit shareholders to vote on the management of their investments even though their funds are not insured against mismanagement and they are assuming more risks than they would in making deposits at a bank. Thus, SEC review of the operation of these funds would require greater scrutiny to assure that investors are adequately protected.

Question: If such funds were permitted, does the Commission have authorized resources to closely supervise these funds in addition to its current expected workload?

Purpose: The Commission may not have adequate resources to supervise these funds if they were approved.

Answer: An advanced concept release published in December concerns the corporate governance provisions of the Investment Company Act of 1940 and discusses various alternatives which would enable all or certain types of open-end investment companies to be organized and operate without shareholder voting, or without either shareholder voting or boards of directors. However, the Commission has not made any formal proposal in this area. At this point, it is uncertain whether the Commission will develop a formal proposal in the future, and if so, whether the proposal will be in the form of rules or legislation. Since the Commission has not decided what, if any, course it will follow with respect to corporate governance for investment companies, we are not in a position to evaluate the effect of any such changes on our staffing needs. To some extent, necessary staffing levels could be dictated not only by the form and substance of any proposal we might develop in this area, but also on the final outcome of the Commission's consideration of alternatives to use the private sector to supplement our investment company examination program, including the development of an SRO. Of course, to the extent the staffing needs of the Division of Investment Management are affected by any proposed changes, we will keep you fully advised.

Recently, a Federal District Court Judge in New York ruled that an investment adviser convicted of defrauding clients and other crimes cannot be prevented by the Commission from publishing investment advisory newsletters. The Commission estimates that 4200 investment advisers are subject to the Investment Advisers Act of 1940. The Commission is on record as stating that it cannot subject investment advisers to frequent examinations.

Question: Would the Commission support legislation that would amend the 1940 Act to cover only those investment advisers who provide advisory financial service to other organizations that are subject to registration with the Commission?

Answer: The Commission would not support legislation that would amend the Advisers Act to cover only those investment advisers who provide advisory services to other entities that are required to register with the Commission. Such legislative amendments would deprive investors, both individuals and regulated entities, of the protections provided by the anti-fraud provisions of the Act which prohibit registered investment advisers from employing any device, scheme or artifice to defraud any client or prospective client or to engage in any act, practice, or course of business which is fraudulent, deceptive or manipulative. The anti-fraud provisions of the Act provide a means of remedying actual abuses and also deter improper conduct. The Commission believes that the requirements of the Advisers Act, especially those applicable to advisory newsletters, are relatively limited and provide important protections to investors and the securities markets.

Congress recently changed legislation to permit banks to offer FDIC insured money market accounts to effectively compete with uninsured money market funds. Some view this step as giving banks a federally subsidized advantage.

Question: Please comment on the need for money market funds to be insured and whether SIPC should provide this insurance.

Answer: The Commission has no basis upon which to decide whether money market funds should be insured and, if so, whether such insurance should be provided by SIPC. Such questions transcend our expertise by going to the heart of the Federal government's involvement in the financial service industry. Certainly, comparable insurance from whatever source would alter the competitive balance between money market funds and the money market depository accounts and provide additional protection to fund investors. However, providing comparable insurance for investment companies would increase the Federal insurance explosion and there is no clear answer to the question of whether the benefit to money market fund investors would be worth the costs that would be involved.

General

Chairman Shad has indicated that the traditional industry classifications for regulatory purposes are no longer responsive to our current economy. Some have argued that these regulatory agencies should be consolidated.

Question: Could, for example, the Federal Reserve Board, which is responsible for monetary policy, effectively oversee the operation of stock exchanges and the self-regulatory agencies as the SEC does?

Answer: It is possible that the Federal Reserve Board could oversee the operations of the stock exchanges and the other self-regulatory organizations, as the SEC does, but this would require a drastic change in the Board's functions and major additions to its staff. The formulation of monetary policy is a substantial area of the Board's competence and expertise, but oversight of the stock exchanges and the other self-regulatory organizations, now carried out by the SEC, is unrelated to that function. The oversight of the stock exchanges and other self-regulatory organizations is concerned principally with fostering fair and orderly securities markets, including the development of a national market system, and the promotion of just and equitable principles of trade among broker-dealers, whereas formulation of monetary policy concerns primarily the allocation of money and credit. The Board does already have some responsibilities under the securities laws in that, under Section 12(i) of the Securities Exchange Act of 1934, the Board has jurisdiction over the administration and enforcement of the securities registration, financial reporting, takeover, tender offer, proxy solicitation, and short-swing trading provisions of that Act as they apply to state banks that are members of the Federal Reserve System. The Board also has primary enforcement and inspection responsibility for state member banks that are registered with the Commission as municipal securities dealers, transfer agents, and clearing agencies. The Board also sets margin requirements for the purchase of securities on credit pursuant to the authority granted to it under Sections 7 and 8 of the Securities Exchange Act. The Board does not, however, perform any functions in the area of securities exchange regulation and oversight or comparable functions.

Question: With a decreased staff, how does the Commission expect to increase its staff's productivity in labor intensive areas?

Answer: Several factors will enable the Commission to improve its staff productivity in the face of personnel reductions. The Commission has given high priority in recent years to upgrading automated information systems affecting all aspects of its program. As a result, the Commission's staff will continue to realize numerous efficiencies in what are normally labor-intensive operations. For example, the Commission's Case Tracking System (CATS) has undergone considerable refinement and has contributed greatly to improved management practices. The CATS system has improved the Commission's ability to monitor investigations and litigation, allocate staff resources in an optimum fashion, and respond expeditiously to official inquiries regarding SEC enforcement actions. In the area of investment management, staff will have increased availability to microcomputer technology, permitting ready analysis of the business and operating conditions of registrants under inspection by SEC examiners. This information will also result in far greater efficiency in targeting regulated entities for inspection. In the area of program direction, a variety of new computer applications will greatly streamline labor-intensive activities. For example, the Commission has recently automated its central personnel data file. This action will enable staff to conduct personnel evaluations and respond to requests for personnel data in a much more timely manner. The Commission will also realize new efficiencies in the financial management area through the automation of cash management and procurement functions.

Another factor leading to improved staff productivity has been an increasing reliance on enhanced private sector self-regulation. For example, the Commission has encouraged the securities exchanges and the National Association of Securities Dealers to develop and implement a comprehensive market oversight surveillance system. In addition, the Commission has proposed legislation which would require over 500 brokerage firms now under SEC regulation to join an SRO. If enacted, this change would bring these entities under the inspection program of the SRO, reducing considerably the burden on the Commission's inspection program. These reforms would enable the Commission to improve the productivity in priority areas, such as the inspection of regulated entities for cause and the oversight of the SRO's.

Finally, the Commission has directed considerable energy toward reformation of its basic regulatory procedures. For example, the Commission's integration of disclosure requirements has led to notable economies for the Commission and registrants alike. In addition, the process of selective review of filings has significantly improved productivity in what is historically one of the Commission's most labor-intensive activities.

To assure plans are being implemented and the desired results are being achieved, the Commission would need staff that can independently and objectively evaluate the results of its decisions. Such a function is often served by internal auditors.

Question: Does the Commission have an internal audit staff? If not, how do the Commissioners obtain objective and impartial feedback on its decisions? If yes, please provide the subject matter reviewed during the last authorization period and the staff days devoted to the review.

Answer: The internal audit function was transferred to the Office of the Executive Director in fiscal 1982 with reporting responsibilities both to the Chairman and the Executive Director. Internal audit provides management with objective analyses, appraisals, recommendations, and pertinent comments concerning activities reviewed. During the year the agency's payroll system was examined to identify its strength and weaknesses. Assistance was also given in developing a new on-line payroll system. The agency also began implementation and coordination of OMB Circular A-123, requiring vulnerability assessments and internal control reviews. Follow-up studies were accomplished on earlier audits examining cash management and the imprest fund.

Question: If the Commission had remained in its prior locations, what would 1983 and 1984 estimates be for rental of space?

Answer: If the Commission had remained in its prior locations, its nationwide rental of space costs would have been $6.6 million in FY 1983 and $7.8 million in FY 1984. These estimates were computed by the General Services Administration Public Buildings Service in March 1981 and March 1982, respectively.

It should be noted that the lease on the Commission's principal headquarters building, 500 N. Capitol Street, expired in calendar 1981. And, while the GSA was estimating in March 1982 a rental value per square foot of office space of $17.70, the building was being advertised in "REGARDIE'S" at a rate of $23-26.

The Commission completed its move into a consolidated headquarters building late last year. At times, various expensive costs are incurred in any such move because of poor planning.

Question: Provide for the record the individual itemized costs for any plumbing work that was done for Commission officials and SEC personnel after they moved into their new location. Also, provide the reason why this plumbing work was not done before the move was made and whether the plumbing work was authorized by GSA.

Answer: At the conclusion of the consolidation move, several plumbing problems became evident. However, the costs associated with the plumbing were borne by the building's owner and the construction firm and not the SEC. Said problems (i.e. sinks in the Printing Plant and the Graphics Room) were the result of misinterpretations of this agency's needs between GSA leasing officials and the building owner, R. Brophy. At this point in time, we are still waiting for two water fountains to be installed on the C-2 and C-3 levels. These items are to be installed at the building owner's expense and not the Commission's.

In 1983, the Commission had 2021 authorized positions. In 1984, authorized positions dropped to 1896, or a 6 percent decrease.

Question: On what basis was this decrease allocated to the various Commission (1) programs and (2) organizations within those programs.

Answer: Each program and most organizations (except for some extremely small ones) were assigned staff reductions to contribute to the overall agency decrease of 6 percent. Some attempt was made to reflect the Commission's current priorities in assigning these cuts. Thus, for example, the Prevention and Suppression of Fraud program was designated to receive a 5% reduction, while the Public Utility Holding Company Regulation reflects a 14% decline.

Fee Enhancement and Cost Recovery

In 1982, the Commission returned to the Treasury 94 percent of the moneys it spent as a result of fees collected from the securities industry and U.S. corporations. This percentage is expected to decline to 82 percent in 1984. Many Americans do not benefit from the Commission activities and it is unfair that the vast majority of corporations and individuals that never run afoul of the securities laws must pay for those few that do violate the securities laws.

Question: When the Commission negotiates settling an enforcement case, why doesn't the Commission attempt to recover its investigative and litigation costs from the other party? Is legislation needed in this area to authorize such recoveries?

Answer: Section 27 of the Securities Exchange Act provides that "no costs shall be assessed for or against the Commission in any proceeding" brought under the Act by or against the Commission in the federal courts. There are similar provisions in other statutes administered by the Commission. Accordingly, legislation would be needed in order to permit the Commission to recover the cost of investigating and prosecuting securities law violators.

Followup: What processes and functions does the Commission perform and incur regulatory costs for which a fee is not collected?

Answer: The Commission charges registration statement fees, transaction fees, fees to broker-dealers unaffiliated with a self-regulatory organization and other filings and reports fees. Over the past five years, the fees collected have averaged 66.8% of the agency's appropriation. The statutory fees collected by the agency are in excess of the actual cost of the specific services with which the fee is associated. Thus, while the Commission does not charge a fee for a particular program activity, fees generated elsewhere may be viewed as "covering" a range of other program activities.

With this in mind, there are a range of regulatory functions for which specific fees are not collected. The Commission does not charge fees for the legal advice, no-action and interpretive letters it provides in its full disclosure, securities market regulation, and investment management programs. The Commission does not charge a fee for acting on applications for most exemptions filed by regulated entities. Further, the Commission does not charge a fee for processing and/or analyzing a variety of documents filed pursuant to the securities statutes nor does it charge for its inspection of regulated entities. A sample of functions and filings by statute would include:

Securities Act of 1933

- Requests for confidential treatment of contract provisions to Rule 485
- Form 144 filed pursuant to Rule 144
- Form 146 filed pursuant to Rule 146
- Form 237 filed pursuant to Rule 237
- Form 240 filed pursuant to Rule 240

Securities Exchange Act of 1934

- Registration of securities information processors
- Registration of clearing agencies
- Registration of transfer agents
- Exchange applications for unlisted trading privileges
- Applications for delisting of securities
- Requests for review of denials of access to exchanges
- Application for removal of statutory disqualifications
- Requests for extensions of time pursuant to Rule 12b-25
- Requests for confidential treatment of any portion of a filing pursuant to Rule 24b-2
- Broker-dealer financial reports
- Quarterly reports (Form 10-Q's) and current reports (Form 8-K's) of issuers having securities registered pursuant to Section 12 of the 1934 Act or of registrants under the 1933 Act
- Ownership reports filed pursuant to Section 16
- Filing of Schedule 14D-1
- Broker-Dealer examinations
- Transfer Agent examinations
- Self-regulatory organization proposals for rule changes submitted pursuant to Rule 19b-4
- Notice of change in majority of directors otherwise than at a meeting of security holders (filed pursuant to Rule 14f-1)
- Certification pursuant to Section 12(g)(4) that a class of issuer's securities is held by less than required 300 persons
- Letters indicating a company purposes to omit shareholders proposals (filed pursuant to Rule 14a-8(d)

Investment Company Act of 1940

- Investment company examinations
- Periodic reports of investment companies

Investment Adviser Act of 1940

- Investment adviser examinations
- Investment adviser annual reports

Of course, the Commission does not charge fees for rulemaking, or for the administrative direction of its regulatory programs. Further, the Commission does not impose fees for its enforcement functions such as the conduct of investigations, district and appellate litigations, administrative proceedings and handling investor complaints.

Reduction in Spending Authority

In 1980 the Commission requested authority to spend $108 million in 1983. Now the Commission is requesting only $99 million for 1984, a decrease of $9 million. The Commission anticipates repeal of the Glass-Steagall prohibitions with the Commission having an expanded role in enforcing the securities laws at the banks. There are over 14,000 FDIC insured banks which would be affected by such repeal.

Question: Please explain why you have requested less authority for 1984 than you requested for 1983?

Answer: In building its authorization request, the Commission starts with a realistic base — the President's budget. In the last authorization request covering the years 1981 through 1983, the Commission used as its base the funding level included in the President's budget for 1981. Figures for 1982 and 1983 were expressed in terms of increments to that base. Over the years 1982 and 1983, actual appropriations fell short of the projected mark. Rather than maintain the variance, in constructing its authorization request for 1984, the Commission once again returned to a realistic base. In this case, the base was the funding level articulated in the President's budget for 1984. Thus, the authorization request for 1984 falls short of the old projection for 1983.

Purpose: The Commission's 1984 authorization request is based on its appropriation request approved by OMB. At this level a supplemental request could exceed its authorized funds.

Followup: If the Glass-Steagall is repealed and the Commission's role is expanded, what assurances do we have the Commission will have sufficient authorized funds to meet these expanded responsibilities? Has the Commission conducted a study that would show this impact?

Answer: In preparing the Commission's authorization request for 1984, each division and office was surveyed regarding its staffing needs. Specifically, these organizations were asked, based on their extensive contacts with and knowledge of the various segments of the securities industry, to assess the staff required to respond to the proposed amendments to Glass-Steagall. Over the period of four weeks, each division and office developed estimates of the workload anticipated by the amendments. They then translated the workload figures into positions. These positions are reflected in the 1984 authorization request.

U.S. Arms Control and Disarmament Agency

STATEMENT OF JAMES L. GEORGE, ACTING DIRECTOR, ARMS CONTROL AND DISARMAMENT AGENCY

ACCOMPANIED BY:

- **WILLIAM J. MONTGOMERY, ADMINISTRATIVE DIRECTOR**
- **ARCHELAUS R. TURRENTINE, ACTING ASSISTANT DIRECTOR, NUCLEAR AND WEAPONS CONTROL BUREAU**
- **THOMAS GRAHAM, JR., DIRECTOR, OFFICE OF CONGRESSIONAL AND PUBLIC AFFAIRS**

BUDGET REQUEST

Senator **Laxalt**. The subcommittee will come to order once gain.

We will now hear the request of the Arms Control and Disarmament Agency. The request is for $21,385,000 and 154 positions.

Appearing on behalf of the agency is the Acting Director, Dr. James L. George.

Dr. George, your agency is on the front line of the administration's efforts to reduce the threat of nuclear war and ensure a lasting peace. I want you to know, because I speak not only for myself but for all of the members of the subcommittee, we stand behind your efforts totally. We look forward to working with you and are delighted to hear your statement.

Dr. **George**. Thank you, Mr. Chairman. Before I begin my statement, I still have the effects of my bout with cancer a few years ago. I will be happy to repeat anything.

Senator **Laxalt**. You are doing remarkably well.

PREPARED STATEMENT

Dr. **George**. If there is no objection, Mr. Chairman, I would submit my full statement for the record.

Senator **Laxalt**. That will be perfectly satisfactory. We would be pleased to listen to a summary.

[The statement follows:]

PREPARED STATEMENT OF JAMES L. GEORGE
ACTING DIRECTOR
ARMS CONTROL AND DISARMAMENT AGENCY

Mr. Chairman and Members of the Committee:

I am pleased to appear before this Subcommittee to present the U.S. Arms Control and Disarmament Agency (ACDA) FY-84 budget request and to review some of the Agency's recent activities and anticipated future initiatives. Mr. William J. Montgomery, ACDA's Director of Administration, Mr. Archelaus R. Turrentine, Acting Assistant Director, the Nuclear and Weapons Control Bureau, Thomas Graham, Jr., Director, Office of Congressional and Public Affairs, are with me today and they will join me in responding to questions you may wish to raise.

As you know, I have been serving since January 14, 1983 as the Acting Director of ACDA pending the confirmation of the President's nominee for that position. As the Acting Director I have reviewed the Agency's budget request to insure that there will be sufficient resources available to the Agency to permit ACDA to carry out its responsibilities and to insure that arms control policies are properly integrated into the development of American foreign policy initiatives.

I believe that the budget for ACDA as submitted by the President to the Congress for the coming fiscal year is adequate for the Agency to carry out its mission and conduct the various arms control negotiations which are in progress on the schedules as we now know them. This is a lean budget without padding and one that should not be reduced below the requested level. I will discuss this in more detail later in my testimony and in our responses to questions the Committee may wish to pose.

Let me now highlight some of ACDA's programs and activities.

Summary of Recent Activities

Organization

ACDA's primary responsibilities continue to be centered on advising and assisting the President, the Secretary of State, the National Security Council, the Congress, and other appropriate Government officials on arms control issues. During the past year the Agency has been reorganized and now includes four principal Bureaus which carry out the mission and line activities of the Agency. These include the Bureaus of Multilateral Affairs, Nuclear and Weapons Control, Strategic Programs, and Verification and Intelligence. These groups are supported by the Office of Administration, General Counsel and Congressional and Public Affairs which function as service units to provide support to the line Bureaus and ACDA's various negotiating delegations. These delegations presently include the Strategic Arms Reduction Talks (START), the Intermediate Range Nuclear Forces Talks (INF), and the Standing Consultative Commission (SCC), for which ACDA has primary responsibility for providing financial, personnel and administrative resources. The Agency has a secondary responsibility for administrative support for the United States delegation to the Committee on Disarmament (CD) and the Mutual and Balanced Force Reduction (MBFR) negotiations. These delegations receive the bulk of their resources from the Department of State.

A chart showing the present ACDA organization is included as Exhibit I.

Arms Control Negotiations

Following the Administration's thorough review of U.S. defense and arms control policies, we now have a very full agenda for arms control. I will now review the involvement of the Arms Control and Disarmament Agency in this broad spectrum of arms control activities, initiatives and negotiations.

During the last year, ACDA has participated extensively in the final phase of the Administration's review of strategic arms control policy in preparation for the Strategic Arms Reduction Talks (START). In support of these negotiations, ACDA has had responsibility, with other interested agencies, for generating and analyzing specific proposals, and for evaluating the verifiability of such proposals and their implications for U.S. national security.

The Strategic Arms Reduction Talks began in Geneva, Switzerland, on June 29, 1982, and two rounds of talks have been completed; the third round began in February 1983. The U.S. START delegation is under the direction of Ambassador Edward L. Rowny. Negotiations on Intermediate-Range Nuclear Forces (INF), which began in Geneva on November 30, 1981, held three rounds in 1982. The fourth round began in late January 1983. The U.S. INF delegation is under the direction of Ambassador Paul Nitze. During negotiations, the Agency has a primary role in coordinating interagency efforts in support of both INF and START. ACDA has also had a leading role in the development of the President's proposals for Confidence Building Measures and their incorporation into START and INF negotiations.

For the remainder of FY-1983, ACDA expects to continue to work with other agencies to prepare for and support START and INF negotiations, and is engaged on a continuing basis in coordinating with other agencies the preparation and analysis of U.S. positions on these matters.

ACDA has primary responsibility for supporting the permanent US-USSR Standing Consultative Commission (SCC) which meets at least twice a year to deal with implemention of, and compliance with, existing SALT agreements and the Accidents Measures Agreement of 1971. The SCC considers questions of compliance under the ABM Treaty and the Interim Agreement, and also considers any questions involving activities which could undercut the SALT II Treaty. During the fall of 1982, a review of the ABM Treaty as required by Article XIV of that Treaty was conducted in a third 1982 session of the SCC. The Agency expects that there will be two sessions of the SCC in calendar year 1983.

ACDA is also responsible for the United States participation in a variety of multilateral disarmament bodies. These include the 40-nation Committee on Disarmament in Geneva; the First Committee of the United Nations General Assembly, which deals exclusively with disarmament and related issues; the United Nations Disarmament Commission; and the negotiations on Mutual and Balanced Force Reductions in Vienna, between NATO and Warsaw Pact countries. In addition to providing much of the the staffing for our delegations to these bodies, ACDA prepares guidance and supports their efforts from the Washington end.

The Committee on Disarmament meets each year for a total of approximately six months, with sessions from February through April and again in the summer from June through August. The UN General Assembly's First Committee meets each fall for approximately two months, usually from mid-October to mid-December. As for the UN Disarmament Commission, it normally meets once each year for three weeks, usually in May or June. All of these are, of course, standing bodies, in which United States participation will continue for the foreseeable future.

Our participation in these bodies requires the development of policy on a variety of arms control issues. ACDA plays a leading role in this interagency process. In the Committee on Disarmament, for example, among the issues under consideration or negotiation are such things as a nuclear test ban, a convention to ban chemical weapons, a convention to ban radiological weapons, and possible further arms control measures affecting outer space. The United Nations General Assembly each fall addresses a wide range of disarmament issues, on which ACDA takes the lead in developing United States positions for use in the Assembly's debate and in negotiations on the development of Assembly resolutions. Last fall the First Committee passed almost 60 resolutions, dealing with such matters as nuclear freezes, nuclear weapons free zones, the no-first-use or non-use of nuclear weapons, a comprehensive nuclear test ban, chemical weapons use, the reporting of and limitations on military spending, outer space arms control, and a host of other matters.

The MBFR negotiations seem likely to continue throughout fiscal year 1984. Last summer a new draft treaty providing for NATO and Warsaw Pact force reductions was tabled by the Western side. This draft was developed primarily by ACDA. In addition, the Soviet Union has just recently unveiled a new proposal of its own regarding force reductions, so it seems likely that these negotiations will have much material to address in the months ahead.

Finally, I should note ACDA's involvement in the Madrid Review meeting of the Conference on Security and Cooperations in Europe (CSCE). As you know, agreement has not yet been reached on a concluding document for that meeting, which is continuing at this time. If agreement is reached at Madrid, one of the principal results of this meeting could be the convening of a Conference on Confidence and Security-building Measures and Disarmament in Europe. It is possible that a preparatory meeting and initial sessions of such a conference could be held this year, and continue into fiscal year 1984. ACDA will play an important role in the United States participation in such a conference.

Non-Proliferation

Nuclear non-proliferation policy remains one of ACDA's focal points for FY 1984. Preventing the further spread of nuclear weapons is vital not only to our national security interests, but to the goals of global peace and security. The challenges of preventing further proliferation will continue to grow in the coming year, and the demands on ACDA's role as both a lead agency and a key coordinating agency in this field will also increase. ACDA will continue to play an important role in the development and analysis of regional approaches to non-proliferation, in the enhancement of bilateral nuclear cooperation agreements, in devising strategies to enhance bilateral security measures to decrease motiviations for proliferation, and in initiating new strategies for consultations with other supplier states.

Cooperation between nuclear supplier and recipient states will be of increasing importance. As the lead agency for the 1985 Non-Proliferation Treaty (NPT) Review Conference, ACDA will be intensifying efforts to consult and reach agreement with other nations about international safeguards, physical safety and security measures, and long-term issues such as fuel storage and waste management. The NPT Review Conference will be a major challenge in international diplomacy and its outcome will have major repercussions on the goals and objectives of non-proliferation. Extensive consultations with other states and major preparation for at least one FY 1984 Preparatory Committee meeting is central to our non-proliferation efforts at this point.

In addition, ACDA will continue to have a major responsibility in the nuclear export field, including not only evaluation of our national policies, but also multinational consultations. Cooperation among current and emergency supplier states will also be a focus of ACDA's activities in the non-proliferation field.

It is also clear that ACDA will play an important role in efforts to increase the effectiveness of the international safeguard regime.

ACDA will continue to devote significant efforts to the areas already mentioned and, in addition, to the more technical areas of non-proliferation policy such as safeguards and physical security for plutonium in all stages of the fuel cycle, and to safeguard other advanced technologies. We will continue to promote full entry into force of the Treaty of Tlatelolco in Latin America and to encourage universal adherence to the NPT and will devote a great deal of time and energy to exploring ways to bring about full adherence to these important treaties.

We expect that the need to control the spread of nuclear weapons will increase in the coming year, and we are committed to ACDA's full and active participation in the full range of activities which surround this critical issue.

Arms and Technology Transfer

ACDA is involved on a day-to-day basis with the Departments of State and Defense and other concerned agencies to insure that the arms control implications of proposed exports of conventional weapons and militarily-useful technology are given full consideration.

Pursuant to the Arms Export Control Act and the Foreign Assistance Act of 1961, as amended, we advise the Secretary of State and, as appropriate, the President on the extent to which proposed transfers of conventional arms will contribute to an arms race, increase the possibility of outbreak or escalation of conflict, or prejudice the development of bilateral or multilateral arms control arrangements. When so requested, ACDA, in consultation with the Department of State and Defense, prepares for the Congress evaluations of the arms control implications of particular proposed sales. We also prepare statements of arms control considerations involved in each country program for inclusion in the annual Executive Branch request to the Congress for U.S. security assistance.

Through its massive exports of arms to surrogate states, the Soviet Union continues to jeopardize regional stability and threaten the security of our friends and allies. The persistence of this threat, together with the rapidly advancing sophistication of conventional arms, will require ACDA to assess a large volume of increasingly complex arms transfer cases in the future. We will be extensively involved in interagency deliberations to address the policy issues raised by requests for arms by our friends abroad.

ACDA also participates with other agencies in controlling exports of technology with both military and commercial applications ("dual-use" technology). We give particular attention to those cases involving the possible transfer of strategic technology to the Soviet Union and its allies, and those with a potentially adverse effect on arms control verification. In our review of "North-South" technology transfer cases, we are particularly concerned with minimizing the risk of adverse effects on regional stability of unauthorized third-country transfers.

As a result of greatly intensified Soviet efforts to acquire Western technology and the rapid advances in militarily-useful technology, we will be required to consider increasingly complex technology transfer policy issues in the future. We will be devoting more and more attention to the arms control issues raised by peaceful cooperation and trade in space technology, in order to limit the proliferation of strategic missile programs.

Defense Program and Analysis

The Agency's Defense Program and Analysis Division is responsible for evaluating the national security implications of arms control proposals and for conducting analyses of defense policies, programs, and technologies as they relate to arms control. As required by law, the Division prepares the annual submission of arms control impact statements (ACIS) to the Congress. In addition, the division prepared the World Military Expenditures and Arms Transfers (WMEAT) publication and provides analytic support to other ACDA arms control activities. The Division also provides the Agency point of contact for operational activities related to Antarctica Inspections.

January 31, 1983 marked the eighth annual submission of ACIS by the Executive Branch to the Congress. In 1975 Congress enacted Section 36 of the Arms Control and Disarmament Act which requires submission of arms control impact statements to Congress with requests for authorization or appropriation for certain defense, technology, and nuclear programs. Each impact statement analyzes the possible implications of these programs for arms control and disarmament policy and negotiations. Detailed information about the programs under consideration, including an analysis of weapon capabilities, stated military requirements, and funding, are contained in each impact statement. However, the principal portion of each ACIS is devoted to a comprehensive arms control analysis. This year's submission (FY 1984) included 10 ACIS covering 85 Department of Defense and Department of Energy programs.

As in the past year, the military and economic statistical data in World Military Expenditures and Arms Transfers: 1971-80 describe the size, trends and distribution of global military expenditures and the world's arms trade. This information includes the amount of resources devoted to military purposes by individual states, alliances, and the world, and a 10-year history for each. The next edition will be published early this year (mid to late March).

The Antarctica Treaty which entered into force in 1961 provided that the continent will remain demilitarized and shall be used for peaceful purposes only. The treaty provides that Treaty-state observers have free access including aerial observation to any area and may inspect all stations there (thus establishing a precedence for on-site inspections). The Agency provides support for operational activities related to Antarctic inspections. The current inspection of foreign Antarctic stations (January-March 1983) is the most extensive inspections to be undertaken in over a decade.

Verification

The Bureau of Verification and Intelligence (VI) was established on October 15, 1981. It is the principal organization of the Arms Control and Disarmament Agency responsible for questions related to verification and compliance.

In the performance of this mission the Bureau organizes and supervises studies and policy papers dealing with the verifiability of provisons of current and projected arms control agreements. While much of this work is carried out by other organizations within the Agency, it falls under the cognizance and supervision of the VI Burea. The Bureau is also responsible for the assessment of verifiability called for in Section 37 of the Arms Control and Disarmament Act.

Other functions carried out by the Bureau of Verification and Intelligence include:

-- The analysis of information pertaining to compliance of other States with existing arms control agreements;

-- the assessment of potential new systems and capabilities for verification;

-- the participation in U.S. and international bodies involved in verification and compliance issues;

-- and the provision of intelligence information to the planning and conduct of arms control negotiations.

The Bureau is also responsible for storing and controlling all documents that contain special intelligence material and for obtaining the necessary access to compartmented intelligence information.

As a part of the reorganization I previously mentioned, the VI Bureau was given in October 1982 the responsibility for studies in operations analysis in support of all the Agency's activities and for the Agency's computer support.

To carry out these functions the Bureau is divided into three subunits. These are the Verification Division, the Intelligence Division, and the Computer Support Group. The

Senior Advisor for Operations Analysis also reports to the head of this Bureau.

FY-84 Budget Request

ACDA is requesting an appropriation of $21,385,000, 154 full-time positions, and 24 full-time equivalents and other positions. Included in our request is funding for the detail of 32 Foreign Service and Military Officers which we expect to use to supplement the capability of our permanent core staff. This request compares to funding of $15,142,000 and the same personnel complement which the Agency has available during FY 1983.

ACDA's budget request includes $15,305,000 for operating expenses and $6,080,000 for our External Research Program. Of the total $16,405,0000 is for continuing ACDA programs, an increase of $1,263,000. The balance of $4,980,000 represents funds necessary to cover expenses related to the Reduced Enrichment for Research and Test Reactors (RERTR) program which is planned for transfer to ACDA from the Department of Energy.

External Research

The ACDA FY-84 external research program amounts to $1,100,000 excluding the RERTR program. This amount is essentially equal to ACDA's FY-83 external research budget.

Our primary plan calls for funding of the line Bureaus as follows:

Director's Reserve	200,000
MA	150,000
NWC	300,000
SP	300,000
VI	150,000
Total	$1,100,000

The Director's Reserve is used primarily for quick turn around analysis for priority projects that are difficult to predict in advance. The external research projects which are conducted by the SP and MA Bureaus are used to supplement these Bureaus' capabilities in support of the START, INF, SCC, and other negotiations. The NWC uses this type of assistance for studies and analyses which support the Bureau's non-proliferation and safeguards work. In the case of the Verification and Intelligence Bureau this funding goes for studies involved with the verification of agreements now being negotiated. I might also add that the bulk of the external research conducted by the Multilateral Affairs and and Strategic Programs Bureaus is related to verification and monitoring projects.

A detailed research budget by project is presently under review. However, I am holding final approval of these proposed contracts pending the arrival of a confirmed Director for the Agency.

Representation Funds

ACDA is requesting $24,000 for FY-84 representation purposes. These funds are used primarily for activities related to international affairs and, for the most part, are allocated to our delegations serving overseas.

As you know, our work requires constant contact with senior foreign officials. With these funds ACDA is able to initiate valuable informal contacts with important representatives of foreign countries and permit the Agency to reciprocate for invitations received from foreign officials in a manner required by diplomatic custom. Even at this level, our delegation heads and other representatives are sometimes required to use their personal funds to insure that their delegations abide by the rules of diplomatic courtesy. I cannot emphasize too strongly how important it is for ACDA to have this type of financial resources available to us.

Delegation Expenses

Geneva

ACDA maintains office and other support activities in Geneva to support our delegations which conduct negotiations in that city. We are estimating direct support expenses for these facilities at $1,621,000 for FY-1984. This is an increase of $166,000 over the FY-83 estimate. The majority of this increase is to cover additional expenses utilities, rent and other services which result from forecasted inflation and updating of support items for the delegations.

The START and INF delegations are housed in the four floors of the Botanic Building in Geneva, with the fifth floor being reserved for negotiating sessions with the Soviets. When space is available we also make available office and conference space to our delegation to the Committee on Disarmament. We have 30,000 square feet available for our use in this building.

The above funds are allocated to the Department of State for fiscal disbursement by the U.S. Mission in Geneva as we request services during the year. This allocation does not include the cost of travel, per diem, salaries and other related expenses for personnel assigned to the delegations. We estimate that an average delegation requires funding of approximately $160,000 for an eight-week session. This includes interpreters' salaries, but excludes expenses related to ACDA permanent staff and detailees assigned to delegations. A normal delegation would include ten (10) ACDA representatives, three (3) interpreters, and a equal number of representatives from various interested agencies.

Vienna

The Mutual Balance Force Reduction (MBFR) administrative costs in Vienna are borne primarily by the State Department and ACDA contributes to the direct expenses of the ACDA representative to the delegation. For FY-84 we anticipate that this will involve approximately $91,000 to cover salary, benefits and rent.

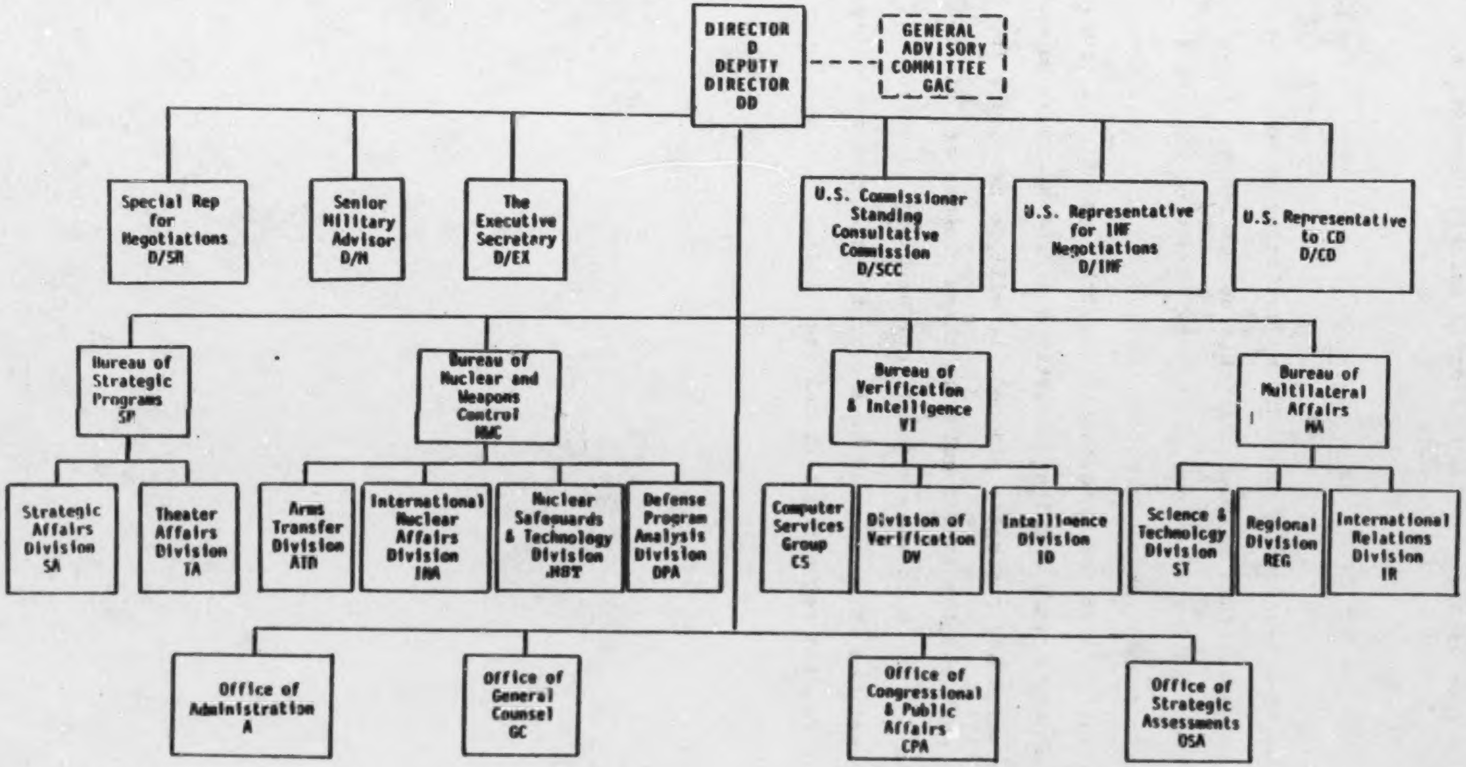
Conclusion

Mr. Chairman, this concludes my testimony today. I would like to repeat that we feel that this budget request is well conceived and lean. We can, with this amount of financial support, accomplish our mission. However, I urge that the Committee support this request in its full amount. If the work of the Agency and its delegations overseas expand beyond those which are presently planned, it will be necessary for us to seek supplemental funding if these changes are significant. I and my colleagues will now be happy to answer any questions which you may have concerning ACDA's activities or our funding request for fiscal year 1984.

EXHIBIT 1

UNITED STATES
ARMS CONTROL AND DISARMAMENT AGENCY

Jan. 1983


DIRECTOR
D
DEPUTY
DIRECTOR
DD
GENERAL ADVISORY COMMITTEE GAC
Special Rep for Negotiations D/SR
Senior Military Advisor D/M
The Executive Secretary D/EX
U.S. Commissioner Standing Consultative Commission D/SCC
U.S. Representative for INF Negotiations D/INF
U.S. Representative to CD D/CD
Bureau of Strategic Programs SP
Bureau of Nuclear and Weapons Control NWC
Bureau of Verification & Intelligence VI
Bureau of Multilateral Affairs MA
Strategic Affairs Division SA
Theater Affairs Division TA
Arms Transfer Division ATD
International Nuclear Affairs Division INA
Nuclear Safeguards & Technology Division NST
Defense Program Analysis Division DPA
Computer Services Group CS
Division of Verification DV
Intelligence Division ID
Science & Technology Division ST
Regional Division REG
International Relations Division IR
Office of Administration A
Office of General Counsel GC
Office of Congressional & Public Affairs CPA
Office of Strategic Assessments OSA

INTRODUCTION OF ASSOCIATES

Dr. GEORGE. Let me briefly introduce those who are with me: Mr. Bill Montgomery, Administrative Director; Mr. Tom Graham, who is the Director of the Office of Congressional Relations; and Mr. Archelaus Turrentine, who is Acting Assistant Director of the Bureau of Nuclear and Weapons Control.

As you mentioned, Mr. Chairman, we are requesting a budget of $21.3 million. This includes 154 full-time positions. We consider this a lean budget, but adequate for all of our present plans for 1984.

Senator LAXALT. Well, that is reassuring, because if there is one agency we don't want to turn up short-handed as a result of the budget process, it is probably yours.

Dr. GEORGE. I appreciate that. If activities warrant, we might come back to you, but we think this is adequate for the time being.

ACDA PRIMARY FUNCTIONS

As you know, the primary function of ACDA is to advise the President, the Secretary of State, members of the National Security Council, as well as Congress, on arms control matters. We are organized into four principal bureaus and three offices. The bureaus are: Bureau of Multilateral Affairs, Nuclear and Weapons Control, Strategic Programs, and Verification and Intelligence. In addition, we have three offices: The Office of Administration, Office of Congressional Relations and Public Affairs, and the Office of General Counsel.

ACDA's primary support responsibility is for three principal delegations. These are START, the Strategic Arms Reduction Talks; INF, the Intermediate Range Nuclear Forces Talks; and the SCC, the Standing Consultative Commission. We also provide secondary support for two other delegations. These are the Committee on Disarmament, which meets in Geneva, and the Mutual and Balanced Force Reduction negotiations, which meets in Vienna. A complete chart of our organization is listed in the statement.

Senator LAXALT. Dr. George, will you excuse me just a moment.

[Brief recess.]

Senator LAXALT. You may proceed now. Hopefully we won't be interrupted again for a couple of minutes.

Dr. GEORGE. I was just briefly going to mention the negotiations.

START NEGOTIATIONS

The START negotiations latest round began January 29 and will end about Easter. The latest INF negotiations, the fourth round, began January 30, 1983. INF met for three rounds in 1982. We anticipate we will continue to work through the interagency process to support START and INF during 1983 and 1984.

The SCC meets twice a year on questions of compliance. Last fall they did a review of the ABM Treaty. They are starting their first session today.

CD, this is a 40-nation Committee that meets twice a year for about 3 months in Geneva. It started about the first of February and it goes through April.

The mutual balanced force reduction, or MBFR, talks in Vienna involve the NATO and Warsaw Pact countries. ACDA provides a representative for these talks on a rotating basis.

Those are five of the main negotiations. In addition to these negotiations, one of ACDA's top priorities is nonproliferation. We spend a lot of time on nonproliferation. We expect to play a leading role for the NPT Review Conference in 1985.

Let me briefly explain some other programs.

Arms and technology transfer responsibility involves advising the Secretary of State and the President on the arms control implications of such transfers. We also assess the impact of our weapons programs on arms control, and draft impact statements annually and submit them to Congress pursuant to statute. In addition, we prepare annually the WMEAT publication, which is a report on expenditures and arms transfers. It is a thorough, 10-year record. This is an extremely useful publication both for international organizations and scholars. We have other publications. One is Documents on Disarmament. That includes relevant statements by just about everybody, agreements, and everything that has happened in our field. These are useful publications both for Congress as well as for others.

ANTARCTIC TREATY

On the Antarctic Treaty—we have people down there right now, in fact I think they are on their way back—ACDA provides support for related operational inspection activities.

ACDA does play a major role in several areas besides START. Briefly, our external research budget for next year is $1.1 million, the same as last year. It is lean, but we consider that adequate. We have a representation request of $24,000. This is an increase of $4,000, but since we have more negotiations we consider this necessary. Representation funds are used mostly for overseas international activities.

Other expenses include leasing space in the Botanic Building in Geneva. Gevena support expenses are $1.6 million. We use the Botanic Building to house the START, INF, SCC, and other delegations.

Senator LAXALT. Does that include working space as well as housing?

Dr. GEORGE. Just working space.

Mr. MONTGOMERY. We have leased part of an office building in Geneva and have a small core staff providing support. That is what the $1.6 million is for. We do have leases on some apartments for the delegation heads, and when they are not there we put other people there, other Government employees.

U.S. PERSONNEL IN GENEVA

Senator LAXALT. How many people do we have there presently?

Mr. MONTGOMERY. Well, at the present time we have four delegations in Geneva alone, and the average size of a delegation would be about 20 people. That includes other than ACDA organizations. The START delegation is a little larger, has about 28, and then INF and SCC.

Senator **Laxalt**. So we have 100 or so there, but not all ACDA?

Mr. **Montgomery**. Yes, total Federal Government employees, including ACDA.

Senator **Laxalt**. We have substantial presence there, don't we?

Mr. **Montgomery**. Right now we do.

Senator **Laxalt**. Somewhat necessary I would say.

Mr. **Montgomery**. They are all in the Botanic Building or the U.S. Mission. They have their offices there, and we hold all our meetings with the Soviets in conference space there.

Senator **Laxalt**. Please go ahead.

Dr. **George**. I was just coming to the end.

The brief statement I have made is for our budget of $21.3 million; $16.4 million of this is for the continuing ACDA programs. This represents an increase of $1.2 million. The personnel positions are the same as fiscal year 1983.

The budget is lean. We think we can accomplish our mission with it.

I would be happy to answer any questions that you have.

Senator **Laxalt**. Well, my people have been studying the budget and they are inclined to agree with your characterization. It appears to be reasonable. You feel you have enough to do the job, doctor?

Dr. **George**. Yes, sir.

Senator **Laxalt**. Of course, that is of concern to us.

IMPACT OF GERMAN ELECTIONS ON TALKS

Let me ask you a couple policy questions outside of the budget itself. What do you think the impact of the recent German elections are on the talks?

Dr. **George**. I think it is positive. Helmut Kohl is a strong supporter of the INF negotiations. Before the election he also said he would support deployment of the Pershing II's.

Senator **Laxalt**. How do you account for the recent statements indicating perhaps we should look at an interim solution? Is he just responding to political demands?

Dr. **George**. I hate to comment on his policy. I would assume that is part of it.

Senator **Laxalt**. Now, as a lead agency in arms control and treaty compliance verification, do you believe we have the technological capability to adequately verify the highly technical provisions under negotiation in our arms control talks? I don't have to tell you that that was a major hurdle in SALT II in terms of many, many people, particularly in the Senate. Do you think we have the capability?

Dr. **George**. As you mentioned, Mr. Chairman, this is a top priority for the administration. The Reagan administration wants deep cuts, but the other aspect is we want good, verifiable treaties. We think we have most of the technical means of verification. Some of the questions have yet to be worked out, but the President is not going to approve START if there isn't verification. This might include some onsite inspection.

Senator **Laxalt**. Do you think the Soviets are going to give at all on onsite?

Dr. GEORGE. Well, I hope they will, and I think they will. There have been a few indications. There are certain negotiations, for example, CW, where you have to have some onsite inspections. If there are not sufficient technical means to verify CW limitations, you have to have some onsite inspections. But they have indicated, for example, at the special session last summer, they may not object to onsite inspections on CW. Of course, we followed up. We didn't.get much explanation as to exactly what they meant. But the Soviets have talked about onsite inspection.

Mr. TURRENTINE. We have some hints in Geneva they would be prepared to be more flexible, but how much is uncertain.

MOVE TO MOBILE MX MISSILES

Senator LAXALT. Tell me what will be the effect, hypothetically, if we move to mobile MX missiles on our SALT posture? This concern is being raised all the time.

Dr. GEORGE. The SALT, that is START, negotiations——

Senator LAXALT. We just have some ideas.

Dr. GEORGE. I do, too. But at SALT I and SALT II, the idea was to limit launchers. But at START we have proposed a limitation of warheads. This would be incorporated into a START treaty.

Mr. GRAHAM. To some extent, Senator, we saw the MX and SS-18 as balancing off against each other. They both have 10 warheads with considerable destructive power, although the SS-18 is a much bigger missile. But I think it is safe to say, in general, that we adopt policies that are most in our national security interest and policies chosen on the basis of this criteria will have the most beneficial aspect on the START negotiation. We obviously shouldn't tailor our forces just to match our negotiating requirements.

SUBMITTED QUESTIONS

Senator LAXALT. We could spend a long time talking about these things. I have been interested, extremely so, because of my State's involvement in MX. We have lived MX, literally, for about 3 years. But I don't have the time and I don't think you do either. We will submit some further questions to you.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

SUBMITTED QUESTIONS

QUESTION:

During the 18-month period -- March 1981 - September 1982 -- ACDA had at least four major organizational changes, shifting resources and responsibilities with and among its various bureaus and offices. In addition, numerous high level positions within ACDA (bureau chiefs, etc.) have been vacant for the past 2 years. What impact has this organizational instability and absence of leadership, had on ACDA's ability to achieve its arms control objectives? Are further major organizational changes contemplated? When will the currently vacant high-level positions be filled?

ANSWER:

ACDA has tried to minimize any instability that could result from the fact that vacancies existed for a number of confirmed presidential employees by insuring that exceptionally qualified personnel are carrying out the duties of the vacant positions in acting capacities. Until January 13, 1983 the Director position was filled by a confirmed appointee. These responsibilities are now being carried out by Dr. James L. George whom the President has designated as the Acting Director. The Deputy position was filled on an acting basis until January 13, and the President has indicated his intention to nominate Mr. David Emery for this position. The Assistant Directorship for Multilateral Affairs has been occupied by Dr. George as a confirmed appointee since January 14, 1983, and as of March 10, 1983 the Assistant Directorship for the Verification and Intelligence Bureau has been filled by Dr. Manfred Eimer as a confirmed appointee. Prior to his confirmation, Dr. Eimer functioned as the Acting Head of the Verification Bureau.

The duties of the Assistant Directors for the Nuclear and Weapons Control (NWC) Bureau and Strategic Programs (SP) Bureau are presently being carried out by Mr. Archelaus R. Turrentine and Mr. Louis Nosenzo, respectively, on an acting basis. Both of these individuals have significant experience related to the work of their Bureau. They are the Deputy Directors for these Bureaus.

The heads of all of the ACDA negotiating Delegations are filled by confirmed Delegation heads with the personal rank of Ambassador. They are:

Strategic Arms Reduction Talks (START)
    Edward L. Rowny

Intermediate Range Nuclear Forces Talks (INF)
    Paul Nitze

Standing Consultative Commission (SCC)
    Richard H. Ellis

Committee on Disarmament (CD)
    Louis Fields

Mutual and Balanced Force Reductions Negotiations (MBFR)
    Morton I. Abramowitz

Any further reorganizations or changes will depend upon decisions that will be made by a new confirmed Director. We are not aware of any planned reorganizations at this time.

Following the confirmation of a new ACDA Director, we expect that nominations for the Assistant Directors of the NWC and SP Bureaus will be handled in an expeditious manner.

QUESTION:

For the past several years ACDA has been financing the development and demonstration of REmote COntinual VERification (RECOVER) system for eventual use for IAEA safeguards. A recent GAO report contained several recommendations to the Director of ACDA on this program. This program, however, does not appear in ACDA's FY 1984 proposed budget. Has ACDA cancelled RECOVER? What action has ACDA taken or planned on GAO's recommendations?

ANSWER:

ACDA started the RECOVER Project to demonstrate the feasibility of the concept of remotely monitoring nuclear safeguard sensors. The feasibility has been established. However, the RECOVER equipment is still in the prototype stage. Before it is ready to become fully operational, an engineering evaluation which tests component reliability and which establishes maintenance procedures and schedules for the components is required. For this purpose the current RECOVER equipment is being transferred to the Sandia National Laboratories so that they may perform the evaluation. Funding for the project will come from the U.S. Program of Technical Assistance for IAEA Safeguards (POTAS). This is clearly in line with one of the principal recommendations from GAO.

ACDA will continue to be the major interface with the IAEA on remote verification systems and will work actively to establish the use of such systems as an integral part of international safeguards.

ACDA will also continue to participate in efforts to expand and improve remote verification systems. For example, ACDA has loaned RECOVER equipment to the Japan Atomic Energy Research Research Institute (JAERI) to serve as the testbed for new concepts in remote verification hardware. Further, in excess of $300,000 of FY-82 funds are being expended on the TRANSEAVER project, which is essentially the RECOVER project adapted to monitor the shipment of nuclear materials by sea.

During FY-1983, there will be a comprehensive study undertaken to assess the usefulness of remote verification, particularly in terms of new inspection benefits which remote verification brings to bear. This study will be funded from POTAS funds and will involve input from a broad spectrum of interested parties including ACDA, DOE, Sandia, the IAEA, etc.

The above efforts to expand the base of organizations participating directly in RECOVER development is again clearly compatible with the GAO recommendations.

Finally, it should be noted that specific research projects such as RECOVER are normally not identified in budget projections since ACDA's external research effort is designed to be responsive to current needs. In regard to RECOVER, the assignment of priorities for the external research funds for FY-1984 and 1985 will be made inter alia on the basis of the results of the efforts described above.

QUESTION:

The number of permanent positions at ACDA has been declining for the past several years. How many permanent positions have been lost during the past 5 years. How many personnel have worked "on loan" to ACDA during this same period and where have they come from? Have the "on loan" personnel been able to fully compensate for decreasing permanent positions. What impact have the decreased personnel had on ACDA's operations?

ANSWER:

POSITIONS AT ACDA

Year	Authorized FTP	Detailees State	Detailees Military	Detailees Total
1978	185	27	24	51
1979	199	32	20	52
1980	199	32	20	52
1981	175	27	25	52
1982	165	23	21	44
1983	154	17	15	32

Although the overall personnel complement has been reduced, ACDA feels that the Agency can effectively carry out its responsibilities as presently planned at this staffing level.

QUESTION:

ACDA is currently participating in on-site inspections of foreign Antarctic stations as provided for in the Antarctic Treaty. How much is budgeted for this effort which was not included in your FY-1983 budget request? What is being gained from the inspections? What are the preliminary findings and conclusions of the visits -- is the Antarctic being used exclusively for peaceful purposes with no military activities, weapons testing or nuclear waste disposals taking place?

ANSWER:

For FY-1984 no funds are requested for Antarctic inspections. This is because the next inspection is not yet scheduled and, typically, will not occur again for at least two or three years.

Antarctic inspections are important to the United States in several ways. First, they demonstrate this Country's interest in continued adherence to the Treaty during a period when resource shortages are tempting other countries to exploit earlier territorial claims that had been set aside by the Treaty. Second, and most important from an arms control perspective, they represent an act of on-site verification of Treaty terms. This is the only Treaty that we and the Soviets are a party to that permits essentially unrestricted on-site verification. Continued exercise of this provision is an important precedent to maintain.

The current Antarctic inspection trip is just concluding. Cables from our inspectors suggest that no violations of the Treaty have been found. This is consistent with the findings of the six previous inspections conducted by the United States.

QUESTION:

Page 6 of the budget submission indicates that the Mutual and Balanced Force Reductions (MBFR) negotiations are expected to proceed "as usual." After 10 years of negotiations, what is "as usual"? What progress is anticipated in FY 1984 and when might an agreement be reached? What is the expected impact of the recent change of U.S. negotiators?

ANSWER:

By stating that the MBFR negotiations would proceed "as usual" in FY-1984, we mean that we expect the negotiations to continue with the normally scheduled three negotiating sessions per year.

The lack of agreement after ten years is of concern, but it is not alarming. These negotiations cover extremely complicated subject matter and involve 19 governments and the NATO Alliance system. But, lack of agreement is also due to the fact that the two sides start with opposing objectives -- the West to eliminate the Eastern manpower superiority in Central Europe, the East to maintain what it claims is a balance of forces. To a large extent, these differences remain. Therefore, prospects for substantive progress toward an agreement in FY-1984 are uncertain.

At the same time, it is incorrect to say there has been no progress. Many basic elements of an agreement have been worked out between the sides, and we have narrowed the differences to a few, albeit fundamental, issues. Agreement now depends more on political decisions than on technical negotiations.

Experience to date indicates the East is interested in continuing the negotiations and that it is willing to make some concessions of interest to the West. It is uncertain whether this interest is sufficient for the East to make the necessary political decisions to conclude an agreement acceptable to the West.

The West tabled a comprehensive draft treaty in July 1982, which offers opportunities for progress in the negotiations. As long as there is reasonable possibility of reaching a mutually acceptable agreement, we will continue our efforts.

No dramatic effect is expected from the recent change of U.S. negotiators. Any U.S. negotiator is charged with carrying out instructions from Washington. Each Ambassador, of course, brings his own personaltiy, talents and ways of working to the job. We have complete confidence that Ambassador Abramowitz will do an excellent job as the U.S. negotiator.

QUESTION:

The 1980 NPT Review Conference ended without a final consensus document. One of the major points of objection in 1980 was the lack of U.S./USSR progress on disarmament. What is ACDA's assessment for the 1985 NPT Review Conference? What obstacles may arise and what action can ACDA undertake to overcome them?

ANSWER:

The NPT remains one of the most important elements in the international non-proliferation regime. Consistent with President Reagan's statement of July 16, 1981, the U.S. continues to encourage universal adherence to the Treaty, and to support fully the provisions of the Treaty.

In this context, the U.S. Goverment will be involved in active and careful preparations for the upcoming 1985 NPT Review Conference. As has been the practice in the past, ACDA will be the principal focal point for these preparations.

It is important to recall that while the 1980 Review Conference did not produce a final consensus document, there was considerable progress toward achieving such a document. Moreover, it is of great significance that the discussion in 1980 focussed on the extent to which the provisions of the Treaty were being implemented; there was little indication that the fundamental objectives of the Treaty were being questioned. We believe the nature of the debate in 1980 reflects the importance which the vast majority of states attribute to the Treaty. This importance is also exemplified by adherence to the Treaty by several additional states since 1980.

It is, of course, highly likely that discussion at the 1985 Review Conference will focus on the extent to which the U.S. and USSR have made progress in implementing their obligations under Article VI of the Treaty which provides for negotiations on disarmament. ACDA is currently leading the U.S. delegations to the major arms control negotiations being conducted today, including of course the START AND INF negotiations. We believe these highly important negotiations have already served to demonstrate our desire for genuine progress in arms control with the Soviet Union, and we will continue to make every effort to promote progress in these negotiations. Such progress will, in turn, enable us to reiterate emphatically our commitment to all of the provisions of the NPT at the 1985 Review Conference.

A second issue which is likely to arise at the 1985 Review Conference involves the degree of implementation of Article IV of the Treaty, which calls on all parties to facilitate the "fullest possible exchange" of cooperation in developing the peaceful uses of nuclear energy. It is clear that this Administration has made a considerable effort to mitigate the criticisms expressed in the late 1970s by a number of states that the United States had become an unreliable supplier in the nuclear field. ACDA has fully supported efforts to reestablish the position of the United States as the recognized leader in the field of nuclear cooperation and supply. We believe these efforts will stand us in good stead at the 1985 Review Conference and enable us to demonstrate an excellent record of compliance with our nuclear supply obligations under Article IV of the NPT.

QUESTION:

During the fall of 1982 a review of the ABM Treaty was completed. What role did the Standing Consultative Committee Play in this effort? Were additional staff required for the review? Do any findings from the review impact on ACDA's planned operations/ projects for FY-1984? What topics will the SCC be cvonsidering during the two sessions expected in 1983?

ANSWER:

The Standing Consultative Commission (SCC) conducted the 1982 ABM Treaty Review in a session specially convened for that purpose between November 9 and December 15, 1982.

Additional staff were not hired to prepare and conduct the review, but a substantial amount of time by existing staff was diverted from other projects and used for this purpose.

The review findings are not impacting on ACDA's planned operations/ projects for FY-84.

The U.S. will continue to raise, as appropriate, any issues related to the sides' obligations or to questions of compliance under the ABM Treaty, the Accidents Measures Agreement, and existing agreements on strategic offensive arms.

QUESTION:

Much attention has been given to the export of "dual-use" technology and/or equipment. What role does ACDA play in the control of such exports? What is ACDA doing to address the intensified efforts by the Soviet Union to acquire Western technology?

ANSWER:

ACDA is an active participant with the Departments of State, Commerce, Defense and other concerned agencies in the export control process of civilian/military ("dual-use") technology. As a member of the Advisory Committee on Export Policy (ACEP) and its subsidiary organs (the sub-ACEP and Operating Committee), ACDA has an opportunity to review proposed dual-use technology transfer cases and provides its views to the principal agencies, especially the Department of State and Commerce, according to the provisions of the Export Administration Act (EAA) of 1979 regarding national security and foreign policy controls on dual-use technology exports. We also can and have provided our views directly to officials of concerned agencies as appropriate.

In reviewing "East-West" technology transfers, ACDA pays particular attention to those cases involving the possible transfer of strategic technologies and equipment to the Soviet Union and its allies, and those with a potentially adverse effect on arms control verification. In its review of "North-South" technology transfer cases, ACDA is particularly concerned to reduce the risk of an adverse effect on regional stability or unauthorized transfers to third countries. We are also giving increased attention to the arms control issues raised by peaceful cooperation and trade in space technology in order to limit the proliferation of military/strategic missile programs.

The current law (EAA of 1979) and regulations (Export Administration Regulations (EAR)) governing dual-use technology transfers are under review by the Administration and Congress. ACDA is participating in this effort to revise, update, and strengthen the provisions for the EAA of 1983.

SUBCOMMITTEE RECESS

Senator LAXALT. Thank you very much. It is a very interesting subject. Continue to do the job you are doing.

Dr. GEORGE. Thank you, Mr. Chairman.

Senator LAXALT. We hope you get a director before long.

The committee will recess until Wednesday, March 23, when we begin to examine the requests of the Justice Department.

[Whereupon, at 11:10 a.m., Wednesday, March 16, the subcommittee was recessed, to reconvene at the call of the Chair.]

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1984

WEDNESDAY, MARCH 23, 1983

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 9:30 a.m., in room S-146, the Capitol, Hon. Paul Laxalt (chairman) presiding.

Present: Senators Laxalt, Rudman, and Specter.

Also present: Senator Chiles.

DEPARTMENT OF JUSTICE

STATEMENT OF WILLIAM FRENCH SMITH, ATTORNEY GENERAL

ACCOMPANIED BY:

- KEVIN D. ROONEY, ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION
- CHARLES R. NEILL, DEPUTY ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION
- JOHN R. SHAFFER, DIRECTOR, BUDGET STAFF

BUDGET REQUEST

Senator **LAXALT**. The committee will come to order.

We have a great deal of ground to cover today, so I think if we get started as quickly as possible, perhaps we can get it all done.

Today the committee will begin to review the budget estimates of the Department of Justice. In overall figures, the Department of Justice is requesting $3.4 billion for fiscal year 1984, up from under $3 billion in fiscal year 1983. Obviously, this 15-percent increase reflects the administration's initiatives in its war on crime, an effort strongly supported by this committee.

INTRODUCTION OF WITNESSES

We are pleased today to have as our first witness the Attorney General, the Honorable William French Smith. While the Department and bureau witnesses will focus on specific budget requests, the Attorney General will give us an overview of the workings of the Department.

General, you may proceed in any manner that you wish.

Mr. **Smith**. Thank you, Mr. Chairman, Senator Specter. I have a statement that is of some length. If you would prefer, Mr. Chairman, I can just submit that and perhaps just very briefly summarize what it has to say.

PREPARED STATEMENT

Senator **Laxalt**. That will be perfectly satisfactory, General. We will have the full statement filed in the record. You may summarize it.

Mr. **Smith**. Thank you.

[The statement follows:]

PREPARED STATEMENT OF WILLIAM FRENCH SMITH
ATTORNEY GENERAL OF THE UNITED STATES

Mr. Chairman and Members of the Subcommittee:

Thank you for the invitation to be here today to testify in favor of a budget for fiscal year 1984 that would enable the Department of Justice to take a giant stride forward in federal law enforcement. This budget proposes nothing less than the funds necessary for a significant escalation in the war on crime by adding $447 million to the Department of Justice's existing resources and, for the first time in history, by providing the Federal Bureau of Investigation with more than $1 billion. This budget clearly reflects the President's strong belief that the federal government must deploy its considerable talents and resources in the most effective ways possible to halt the spread of crime into American life.

Mr. Chairman, I am requesting today a budget of $3.4 billion for 55,431 positions and 58,249 full-time equivalent work years. That is an increase of 1,346 full-time equivalent work years over the number allocated to the Department in fiscal year 1983. And the dollar amount of the budget represents a 15.3 percent increase over the amount of budget authority expected for the current fiscal year.

Department officials will appear before you to answer specific questions you may have concerning programs under their direction. At this time I would like to dwell on the most notable feature of this budget -- its request for resources to deal effectively with crime.

Crime in America has become increasingly organized and sophisticated. Organized crime in particular has become especially lucrative because of the enormous profits in the illicit-drug business and other unlawful enterprises. Furthermore, as I have indicated on several occasions before this and other committees, organized crime and drug trafficking spawn violent crime. Violent crime damages and destroys property. It wounds and takes lives. It has forced citizens to stay home for fear of what may strike them on the streets. It has limited the activities of children. Directly or indirectly, violent crime threatens each person and each institution in America.

In 1981, we responded to the growing public concern about crime. I commissioned the Violent Crime Task Force and established Law Enforcement Coordinating Committees in U.S. Attorneys' districts throughout the Nation. The work of these two groups impressed many observers. Their conclusion was this: that a successful attack on crime requires us to focus on drug trafficking and to get violent offenders off the street.

Accordingly, I directed the FBI to become involved in major drug trafficking cases, and to work together with the Drug Enforcement Administration. Since that time, there have been more than 1100 drug investigations involving the FBI, roughly one-third of which have been joint investigations with DEA. This cooperative venture within the Department also has taught us the vast scope of the illicit-drug problem and impressed upon us the need for additional resources if we are to wage a serious war on crime.

Last year, we explained the problem to the President, and he agreed that more funds should be committed to the Department. Two months ago, at the President's request and with the help of your Committee, Congress added a net increase of approximately $140 million to our budget for fiscal year 1983. Some $123 million of that underwrites our Organized Crime Drug Enforcement Initiative. The budget now before you, for fiscal year 1984, represents the next step toward our goal.

This budget provides funding for our attack on drug-related crime, for extensive new prison and jail construction, and for the large-scale application of modern technology to the federal justice system. The budget reflects our considered approach of applying resources in a balanced manner across the justice system. Our approach recognizes and supports the interrelationship of the various components of the system, which include investigations, prosecution, corrections and prisons, and federal assistance to states and localities.

Let me briefly discuss the problems we have identified in the fight against crime and how we propose in this budget to deal with them.

First, this budget addresses the need for investigators. The budget continues funding for 760 Department of Justice investigative staff who will be participating in regional drug-task forces with funding provided also for an additional 500 investigators and support staff in the appropriations for the Department of Treasury.

Second, this budget addresses the need for more prosecutors. The budget completely funds the 340 prosecutorial staff, on the regional drug task forces. These 340 prosecutorial staff together with the 1,260 investigative staff in the Departments of Justice and Treasury, reflect the President's decision to commit a staff of 1600 persons to the fight against drug-related crime. The budget also continues funding the 78 positions obtained last fall for the South Florida Drug Task Force.

Third, this budget addresses the shortage of space available for incarcerating federal prisoners. Federal prisons already are overcrowded; they have 23 percent more inmates than their rated bedspace can hold. The problem of insufficient space doubtless will be exacerbated as we increase our investigative and prosecutorial efforts.

Our budget request contains $96 million for new federal prison capacity. It requests funds for construction of one 500-bed Federal Correctional Institution (FCI) in the northeastern United States. It asks for planning and site acquisition funds for a second 500-bed FCI in the Northeast, construction of a 500-bed Metropolitan Correctional Center in Los Angeles, an additional 340 bedspaces at existing federal facilities (780 such bedspaces were funded in 1983), and funds for a number of modernization and rehabilitation projects throughout the Federal Prison System. The budget includes also an additional $6 million for Contract Community Treatment Centers that would hold eligible federal prisoners nearing their time for release.

The $96 million requested here builds on the $57 million provided for prison construction last fall through a 1982 supplemental appropriation and the 1983 budget amendment requested by the President.

Fourth, this budget addresses the need for more space for federal prisoners who have yet to be sentenced. It is best if unsentenced federal prisoners can be kept in facilities located relatively close to federal courts.

The budget also requests an additional $10.5 million for the Support of the U.S. Prisoners program. This represents a 31 percent increase over last year. An additional $10 million is provided through the Organized Crime Drug Enforcement initiative for the Marshals Service's Cooperative Agreement Program (CAP). The latter goes beyond the $5 million provided for CAP in the 1983 Organized Crime Drug Enforcement initiative.

The CAP effort provides state and local detention facilities with funds for equipment, remodeling and, in some cases, construction of more bedspace. This construction takes place upon agreement that a number of bedspaces in local jails will be available for housing federal prisoners in the custody of the Marshals Service. The CAP effort is critical to reopening the dozens of local facilities that in the past five years have quit offering space, or else offered much less space, for housing federal prisoners.

Fifth, this budget addresses the need for improved technology for the federal justice system. It includes more than $175 million in new funding for automatic data processing, data telecommunications, voice privacy radio systems, litigation support systems, and office automation for Justice investigative, prosecutive and litigative activities. This money specifically will assist the FBI, DEA and the Immigration and Naturalization Service as each enhances its automatic data processing capability. In addition, the funds will facilitate completion of the FBI's Automated Identification Division System. This system will enable us to identify, within 24 hours, fingerprints taken in criminal investigations. As for the voice privacy radio system, it will enable agents in the street to communicate more effectively and securely with one another.

Sixth, this budget addresses the need to support worthy state and local assistance initiatives. Soon we will be forwarding legislation on this matter. The bulk of the $90 million we will seek would match dollar for dollar truly effective state and local criminal justice efforts.

Seventh, this budget seeks to improve record keeping by the INS. It includes $10 million request for establishment of an INS National Records Center. Inasmuch as INS will be converting to automatic data processing, thanks in part to the $17 million included in the general request for improved technology that I mentioned earlier, the new center should enable INS to maintain a more accountable and up-to-date records system.

Eighth, this budget addresses the need for an increased foreign counterintelligence capability. We seek more support both for staff and operations in the FBI's Foreign Counterintelligence program. The budget adopts recommendations made by the Director of Central Intelligence to improve the FBI's ability to deal with known and suspected hostile foreign intelligence agents operating within the United States. The budget also recognizes the need for additional FBI staff to counter the intense efforts by hostile foreign intelligence services to gain access to sensitive American technology.

Last, the budget addresses the need for personnel in key areas by including funds for more than 500 new positions.

These are in addition to the positions that will be funded through the Organized Crime Drug Enforcement initiative and the FBI's Foreign Counterintelligence program.

Of these 500 new positions, 185 would be allocated to the FBI. Some 160 of these individuals would implement the Bureau's voice privacy and ADP initiatives. Another 25 would be assigned to a Hostage Rescue Team based in the FBI's Washington, D.C., Field Office.

Thirty-five other positions would go to the Drug Enforcement Administration. The new positions would be used in the DEA's foreign cooperative investigations, laboratory, ADP, and technical field support programs.

Another 212 positions will be created within the Federal Prison System, the majority in its Medical Services program. And 31 individuals would be added to the U.S. Marshals Service to provide additional court security under an agreement we reached with the Chief Justice last spring.

The remaining 37 new employees would work in the areas of prosecution and litigation. The Civil Rights Division would have 15 new staff members who are needed to assist our prosecution of criminal civil rights violations and handle the increased workload expected as a result of the 1982 extension and amendment of the Voting Rights Act. The U.S. Attorneys would be given 32 new positions mainly to help in civil litigation. The administration plans to maintain the size of the prosecutive staff added by the Congress in 1983 to the U.S. Attorney's office for the District of Columbia.

The budget does not include funding for juvenile justice grants, state and local drug grants, and the service of private process program in the U.S. Marshal Service. These reductions would save almost $85 million. The proposed termination regarding the private process program builds upon P.L. 97-462, signed Jan. 12, 1983, which had already effectively minimized the Marshals Service role in that area.

Another proposed reduction would save $10 million in the INS Detention and Deportation program. In 1982 Congress funded the operation of the Ft. Allen, Puerto Rico, Service Processing Center, which was activated for the Haitian detention effort. Since there is no need for Ft. Allen, the funds for its operation can also be eliminated.

Mr. Chairman, I believe our programs promise a highly effective attack on all forms of crime, but especially drug-related and organized crime. This budget will require substantial new expenditures, but the total cost will probably be less than what is spent in one week on illegal drugs in this country. Indeed, it will be less than what is spent in one week on many other federal programs.

On a number of occasions, the President has stated that his commitment to the war on crime, especially in drug trafficking is unshakable. I share that unshakable commitment. We intend to do what is necessary to end the drug menace and cripple organized crime. This budget will help accomplish just that. It is a comprehensive and carefully crafted budget that will improve law enforcement efforts throughout the Department of Justice. Although the battle cannot be won quickly, I firmly believe it can be won. I ask this Committee to join us in the fight.

Mr. Chairman, I would like to conclude my remarks by publicly thanking you for co-sponsoring S. 829, the Comprehensive Crime Control Act of 1983. The enactment of this legislation would be another vital step forward in our fight against crime.

Mr. Chairman, I am, of course, ready to answer any question you or the members of the Committee may have.

BUDGET REQUEST

Mr. SMITH. Mr. Chairman, members of the committee, I am requesting today a budget of $3.4 billion for 55,431 positions and 58,249 full-time equivalent work years. That is an increase of 1,346 full-time equivalent work years over the number allocated to the Department in fiscal year 1983. The dollar amount of the budget represents a 15.3-percent increase over the amount of budget authority expected for the current fiscal year.

You have my full statement, Mr. Chairman. For now let me make a few comments on our budget request, beginning with the observation that it reflects the President's strong belief that the Federal Government must deploy its considerable talents and resources in the most effective ways possible to halt the spread of crime into American life.

As I point out in detail in my statement, the budget proposes funding for more investigators and prosecutors, many of whom will be engaged in the fight against drug-related crime, and it proposes funding for new Federal prison capacity and for more space for Federal prisoners who have yet to be sentenced. The budget also seeks funding to improve the technology of the Federal justice system, to support worthy State and local assistance, and to improve recordkeeping at the Immigration and Naturalization Service. Finally, the budget addresses the need for an increased foreign counterintelligence capability and of personnel in key areas. Most of the new positions, some 500 in all, would be allocated to the FBI and DEA and the Federal prison system, the U.S. Marshals Service, and the U.S. Attorneys Office.

You will see that our budget does not include funding for several programs. The reductions we propose would save almost $85 million. We thus will still need substantial new expenditures. The total cost will probably be less than what is spent in one week on illegal drugs in this country.

Let me close by explicitly thanking you for cosponsoring Senate bill, S. 892, the Comprehensive Crime Control Act of 1983, the enactment of which will be another vital step forward in our fight against crime.

That is a very brief summary, Mr. Chairman. I will be glad to respond to questions.

RETAIL PRICE MAINTENANCE

Senator LAXALT. Thank you, General.

I know that Senator Rudman has a conflict. If it is acceptable to Senator Specter, perhaps we will let him ask questions out of order for a moment.

Senator SPECTER. Of course.

Senator RUDMAN. Thank you very much, Mr. Chairman, for your courtesy. I have a Governmental Affairs hearing this morning on the whole defense procurement situation.

Mr. Attorney General, I understand that we are not going to have Assistant General Baxter before us this year because it is my understanding there is some proposal to consolidate the Antitrust Division's budget and not have it as a separate line item. Is that correct?

Mr. SMITH. I am not familiar with that.

Mr. ROONEY. We had proposed that last year, Senator, but that is not a proposal this year.

Senator RUDMAN. Will he be appearing before this committee?

Mr. ROONEY. The Deputy Attorney General will be representing all of the litigating divisions.

Senator RUDMAN. That was my understanding. That is kind of too bad because I found Mr. Baxter's testimony interesting. I didn't agree with most of it, but I had hoped to be able to talk to him about one subject, so I think I will propose that to you in the interest of time.

It is my understanding that the administration has taken no position whatsoever with respect to changing the law on retail price maintenance. Is that correct?

Mr. SMITH. Senator Rudman, that matter is very much under consideration, as is true with possibly other recommendations for change in the antitrust laws. Actually, I know Mr. Baxter's view is that, generally speaking, changes in the antitrust laws should be changed on a programmatic basis and not on an ad hoc basis. But he does, as you know, have views on that subject.

LEGISLATIVE PROPOSAL ON ANTITRUST LAWS

The question of appropriate amendments to the antitrust laws is very much under review, and we may have a proposal on that before too long.

Senator RUDMAN. At this time, however, I would be correct in stating that there is no proposal pending before the Judiciary Committee.

Mr. SMITH. That is correct.

Senator RUDMAN. I think I am also correct, and I think we can probably agree on this, that under section 1 of the present Sherman Act, vertical price restraints, are in fact a per se violation. I think that is the law.

Mr. SMITH. Well, it all depends on what you mean by vertical restraints.

Senator RUDMAN. I am talking about the particular case that the Justice Department is about to enter into on what I think is precisely the opposite side of the law. That is why I raise the issue.

I will be happy to give you more detail, if you like.

Mr. SMITH. I wouldn't be in a position to discuss that.

RESPONSIBILITY FOR ADMINISTERING ANTITRUST LAWS

Senator RUDMAN. I wonder if you might supply for the record, then, some information, and I think it is very disturbing. We understand that Mr. Baxter, who has very strong views on this—and he may well be right—I am not going to argue whether he is right or wrong. That is not the point here. The point is it seems to me Congress writes the laws and the Supreme Court interprets them. If the administration thinks some of those laws ought to be changed, and well might they ought to be, the place to change them it seems is here. Mr. Baxter has filed, I understand, or is about to file, an amicus brief in the U.S. Supreme Court and name the United States which essentially goes to striking the current interpretation of section 1 as it relates to retail price maintenance. I don't think that is the proper forum for Mr. Baxter to be filing amicus briefs. I would very much appreciate it if you would look into that for me.

I will supply you full information and get back to the committee, because obviously if the antitrust laws ought to be changed, then we ought to go through that. But it seems to me that we are not to try to change them with the Justice Department on the opposite side of the current law in the Supreme Court on the side of retail price maintenance, particularly looking at President Reagan's record as Governor of California, who was very supportive of not allowing those kinds of activities to take place in the State of California. I won't bore you with the record. I am sure you are more familiar with it than I am.

Senator LAXALT. If the Senator will yield, you are going to chair a couple of the subcommittee's hearings. Perhaps at one of those hearings we could invite Mr. Baxter and have him come in so he could address in more detail the Senator's concern.

Mr. SMITH. I am sure we could. Either that or we would be glad to have Mr. Baxter meet with you and explain it.

Senator RUDMAN. We might be able to do it with a meeting. I am not so much interested in a public forum as trying to ascertain how we are going to deal with these laws, because I thought it was rather unusual in this particular case to be filing on the side of the case he is filing the amicus brief in, or is about to.

Mr. Chairman, I do appreciate the courtesy. I don't want to prolong this. I think that is an excellent suggestion. Either we have Mr. Baxter before us or we meet with him and just find out what he is doing in this particular case.

Mr. SMITH. Mr. Baxter has very good reasons for doing what he does in most cases. I am sure he would be very happy to discuss that with you, Senator. I will be happy to set it up, if you would like.

Senator RUDMAN. That is fine. We will follow that up. Mr. Chairman, thank you very much.

ORGANIZED CRIME DRUG ENFORCEMENT

Senator LAXALT. Thank you, Senator, for joining us.

General, the organized crime and drug enforcement effort of this administration received $127 million in fiscal year 1983. Now this year you are asking for $105 million more. You have already alluded to that. At what stage of implementation are these task forces today?

Mr. SMITH. Each of the core cities has been designated. Each of the task forces has been organized in those core cities. Of course, each task force differs from the others. This is part of their purpose, to have them flexible.

Senator LAXALT. How many core cities do we have at the present time?

Mr. SMITH. Twelve, plus south Florida. All of those task forces are up and running. Each has been assigned at least two major drug cases. We anticipate that they will be at full strength by sometime this summer. As of now, on the average, we would have possibly 20 investigators assigned to each one, again on the average, and with perhaps 4 or 5 prosecutors. That number will be greatly increased by the time of full strength, which as I say is sometime this summer.

INTERAGENCY COOPERATION—OCDE

Senator Laxalt. Every time two Cabinet departments interact on a project, there are some jurisdictional disputes and jealousies. The drug task forces are currently drawing from several agencies. My staff advises me that these agencies cover some five Cabinet departments. Can you tell us, General, how well this interagency marriage is working out so far?

Mr. Smith. You know, those five Cabinet departments were first put to the test with what was then a unique approach in south Florida's experience. Under a single entity, the task force, all of these groups were brought together to achieve a common purpose, and the result has been very successful. And certainly one of the reasons for that success has been the ability of these groups to work together. The experience there was really in one very significant way the genesis for the current 12 task forces. We have found, though, as you say, that there are always growing pains whenever you put something like this together with different groups. Nevertheless, the cooperation has been outstanding. We have been very encouraged by the ability of groups, ranging from Drug Enforcement Administration people to the Coast Guard, to really come together and work to achieve a common purpose. We are anticipating that that cooperation will certainly continue.

Senator Laxalt. Do you see the committee helping out at all with our responsibilities in oversight as these various task forces become institutionalized?

Mr. Smith. Well, needless to say, we are very grateful for the funds we received in 1983, the $127-plus million, and also, of course, the request that we have here. If there are problems that need to be addressed that perhaps could be aided by action up here, we certainly won't hesitate to make a proposal.

LAW ENFORCEMENT COORDINATING COMMITTEES

Senator Laxalt. Please describe the progress of the law enforcement coordinating committees and your plans for them.

Mr. Smith. As you know, that concept grew out of the Attorney General's Task Force on Violent Crime, chaired by Griffin Bell and Jim Thompson of Illinois. That was one of their 64 recommendations and one of the principal ones. We have implemented that in each of the 94 districts throughout the United States. This is one way to effectively improve law enforcement without costing a great deal. As a matter of fact it saves money, because this involves the pooling of the resources of Federal, State and local law enforcement agencies in given areas; it also involves determining local priorities, which also will vary from locality to locality, and then developing techniques for the prosecutors so those determinations can in fact be implemented.

These groups are working highly successfully. It is interesting that in some areas, although not very many, that before this concept was developed and implemented these groups worked together well just because of the relationships between the heads of the various agencies, the chiefs of police and sheriffs and so on. But in other areas, perhaps in most areas, there were situations where these groups didn't even know each other, didn't even talk to each other.

We have directed our U.S. attorneys to take the lead in establishing these committees. I myself have visited a host of committee meetings around the country, and others in the Department of Justice have done the same with the rest. They are really working quite well. It is something that should have been done a long time ago.

Senator **Laxalt**. Are they addressing themselves principally to the policy area or modes of operation?

Mr. **Smith**. Both.

Senator **Laxalt**. Are you developing any conflicts among these various agencies of any substance?

Mr. **Smith**. None that have come to my attention.

Senator **Laxalt**. No turf battles yet?

Mr. **Smith**. By and large, the reports we get are really quite encouraging. Whenever two or more are gathered together, sooner or later there is going to be some kind of a conflict or turf battle. I am sure that these groups are not going to be any exception.

Senator **Laxalt**. What is the mechanism, if there is one at this early point, of resolving that kind of difficulty should it arise? Who calls the shot?

Mr. **Smith**. By and large, our U.S. attorneys. But they can't call the shot in the sense of directing or ordering. They have to do it through cooperation and working together and consensus. That is the nature of the beast and that is the way it ought to be in order for it to be successful.

Senator **Laxalt**. I don't think any amount of guidelines or any amount of authority is going to do the job if they can't develop the consensus.

Mr. **Smith**. I agree.

Senator **Laxalt**. It operates much like we work around here.

Mr. **Smith**. Yes.

COMMISSION ON ORGANIZED CRIME

Senator **Laxalt**. Let me back up a little to the Commission on Organized Crime. You have again renewed your request for this task force. What will be its goals and what do you hope to accomplish with it? And as a part of that, how do you think the new program affects the new organized crime strike force program? Would it be wasteful to operate both?

Mr. **Smith**. To answer that last part first, the answer is no. The strike forces have their own particular assignment and they will continue to do it. New task forces are designed to complement, not to duplicate or overlap or conflict with the strike forces.

Senator **Laxalt**. So the strike force program will continue to be fairly independent?

Mr. **Smith**. Yes; in terms of the assignment and function.

Senator **Laxalt**. Yes.

Mr. **Smith**. As far as the Organized Crime Commission is concerned, this is designed really to focus the spotlight on the whole area of organized crime, to investigate it, to analyze and determine new organizations. Organized crime is taking new and different forms, prison gangs and motorcycle gangs and this sort of thing. There is much out there that we don't know that we need to know. There is much that we do know that needs to be further explored and implemented. But also, one thing organized crime does not like is publicity, the spotlight being placed on it. This is one of the purposes of this Commission. In a very real way it is designed to operate the way the old Kefauver Commission did, or McClellan's Committee, to highlight the problem, to bring it to public attention, also to investigate and to make recommendations as to how better we can do a job insofar as organized crime is concerned.

Now, actually, we are doing a much better job with organized crime than is generally recognized. But it is never good enough. We think that this is one additional procedure that will help in that overall effort.

Senator **Laxalt**. Once they are appointed, will they hold hearings? What will be the format? When you talk about publicity, will there be hearings, for example, with television coverage and general press coverage?

Mr. Smith. That is certainly the idea. The procedures would be established by the Commission. There is the matter of not only funding it but also requesting subpena powers. I assume that that will be faced as it gets underway.

PRISON CONSTRUCTION AND EXPANSION

Senator **Laxalt**. Let's talk for a second or two about prison construction and expansion. Senator Specter and I discuss this issue from time to time. We know from our own experience, and from our own States that we have a pretty serious prison overcrowding problem today. Our numbers indicate that overcrowding is probably around a 23-percent rate. I don't know whether that coincides with yours or not. To what extent will that figure be decreased by this year's budget request?

Mr. **Smith**. We have an item in there of $106 million for prisons, which includes new prisons, expansion, renovation, and so on. If that program is adopted and funded, that would reduce our overcrowding to about 16 percent from 23 percent.

Just about 2 years ago, a little less than 2 years ago, as a matter of fact, we were just about at capacity. We have gone from just about at capacity to 23 percent over. It is actually rising at the rate of about 1 percent a month, to where we are now 23 percent over capacity. With this program we should get it down to about 16 percent over.

HABITUAL OFFENDERS AND ALTERNATE FORMS OF CORRECTION

Senator **Laxalt**. Are we shorting this program fund-wise? The reason I ask this is Senator Specter has indicated if we are successful in passing the administration's crime package as we hope, that should increase the prison population particularly insofar as habitual offenders are concerned. Senator Specter will speak to this later, I am sure. He tells me if we could isolate a number of these people in the urban areas, the number of crimes will decrease dramatically.

Are we doing the type of planning and construction to take care of that, if we achieve the results we all hope for?

Mr. SMITH. It is always a matter of catchup, but we think that with this program we should be able to at least stay ahead of the problem. There is a host of approaches to this overall problem. One, of course, is new prison construction. There are others.

I delivered a speech on this subject at Vanderbilt University a while ago. We have to look, among other things, at proper classification of prisons: maximum, intermediate, and light security. It is far less expensive to keep somebody in a minimum security prison than it is in maximum. Intermediate, of course, is less expensive than maximum. It is important that prisoners be appropriately classified. Then, as I indicated in that speech, we also have to look to other forms of punishment in appropriate cases. The violent people you obviously have to get off the street. There are other categories, such as public corruption, which should be dealt with severely. In some cases, however, it is possible to utilize other forms. Actually, right now, of all of those that are under Federal supervision—that is prisoners of one kind or another—only about a third are actually incarcerated. The others are out on parole or bail or what have you.

Senator LAXALT. I know you are fully aware that fact was plugged in the jobs bill.

Mr. SMITH. Yes.

LOS ANGELES METROPOLITAN CORRECTION CENTER

Senator LAXALT. Most of the jobs bill money is devoted to rehabilitation. We had some problems in the conference over the issue whether funds should go for new construction. I might tell you, if you don't know already, on the House side there are some serious questions being raised in connection with the new proposed prison in Los Angeles. To give you numbers, they say the jail space will cost $82,000 a unit. They think that is a little much. So you can anticipate some serious questions about the numbers involved in that particular facility.

Mr. SMITH. That seems to be one that our prison officials maintain is probably needed as a top priority item, and the judges will tell you that, too, particularly the judges in that area.

Senator LAXALT. Yes. I don't think it is a question so much about the site as it is the unit cost.

Mr. SMITH. Right. Of course, in Los Angeles, if you locate it anywhere around where it is needed——

Senator LAXALT. You are talking about a lot of dollars just to site it.

Mr. SMITH. Right. But, on the other hand, you also have to consider the cost of the alternative. For example, right now most of those prisoners out there are being transported from Terminal Island. If you add in the costs of that transportation alone, the time involved, you can see that to locate a new prison facility would be far less expensive if you deducted the cost of the alternative means or methods.

As you know, Las Vegas is another area that is having a real problem. In Las Vegas we are having to transport people as far away as San Diego. The cost of that is tremendous. Whoever is considering this should consider the costs of the alternative rather than just the capital costs.

Another aspect is that the capital costs of prison facilities only represent about 10 percent of the overall costs of the prison system; 90 percent goes to operation and maintenance.

"MARATHON BANKRUPTCY PROBLEM"

Senator **Laxalt**. In closing here—and we will be submitting other written questions to you and your people that we would like to have returned within a reasonable time—we yesterday reported out of Judiciary Committee, what we perceived to be an answer to the so-called marathon bankruptcy problem. For the purpose of the record, will the General indicate to us what his feeling is in respect to the approach that we finally took and the mix between article 1 and article 3?

Mr. **Smith**. As you know, we have supported the article 3 solution to that problem for the principal reason that in view of the state of the law on this subject, it probably is the only sure way to resolve the question that the Supreme Court had raised. But we recognize that there are problems with that particular approach. I am familiar with the action that the committee took yesterday, and with the reservation that I have mentioned, we certainly would support that approach. We would prefer, if we had a choice, to have it somewhat different, but I think that if there is that kind of consensus we certainly would support it.

Senator **Laxalt**. We exhort everybody in Justice to start working on the House side because we would like very much to get a bill this time. I think we are going to move very promptly on our side and will process it here before long.

Mr. **Smith**. We think it is critical that that whole question be resolved and as soon as possible.

Senator **Laxalt**. If you can indicate to the House that this is a very high priority, I think it would be very helpful.

Mr. **Smith**. We have done that and will continue to do it.

JUSTICE ASSISTANCE ACT

Senator **Laxalt**. Thank you. Senator Specter?

Senator **Specter**. Thank you, Mr. Chairman.

Mr. Attorney General, the difficult problem which your Department, this committee, and the entire Government faces is allocating very limited resources to very major problems. I would like to pursue a couple of those lines of inquiry with you this morning. One is on the Justice Assistance Act.

I commend the Department of Justice and the administration for moving ahead to provide funding, although it is admittedly on a very modest basis, in the range of $90 million or $110 million. My Subcommittee on the Judiciary which has jurisdiction wants to work with you and get that done and get it passed.

There are a couple of open issues which we are prepared to adjust our thinking to your preferences to move ahead with it. One is on the issue of some appointments. Another is on the issue of block grants versus categorical grants. We have been concerned about some of the experience of the old Law Enforcement Assistance Administration on the block grants, setting up a second tier of bureaucracy and subjecting certain of these grants to favoritism. Our thought after review was there had been better experience from the categorical or specific grants.

My question to you is, How firmly are you committed to the block grant concept with just the limited amount of $90 million to spend in Justice Assistance?

Mr. SMITH. As you know, we are most anxious to benefit from the experience of LEAA and to develop those programs and also the methods that are designed to achieve the best results. We certainly are not inflexible on that subject. We are certainly willing to discuss it, although we think proposals that we have made are really designed to accomplish that.

Senator SPECTER. Perhaps we can. Mr. McConnell is here today. We can pursue that and come to some meeting of the minds. I think the important thing is to get it done. We are prepared to defer to your preference on it because I think as soon as we get it done, we will be far ahead of the process.

Mr. SMITH. Yes. We agree.

JUVENILE JUSTICE PROGRAM

Senator SPECTER. On the juvenile justice program, I understand your position, because of limited funds you would prefer to allocate the Department of Justice resources in other places. The Subcommittee on Juvenile Justice has had a series of hearings last year. I know with your busy schedule you can't keep up with all the hearings that are going on, but I would ask you to consider some of the findings which we have made.

There is one very bad situation in the State of Oklahoma where they were mixing some juveniles and adults. That is a problem nationwide. We have found that the number of juveniles held in adult jails and lockups annually has been estimated at 479,000. And the Department's budget submission discloses 35,000 of the juveniles who are nonoffenders and status offenders are being detained, despite the deinstitutionalization mandate of the Juvenile Justice and Delinquency Prevention Act.

My point here is to call your attention to these problems and also the general leadership role that the Federal Government has in juvenile justice. We all know that juvenile crime is a tremendous problem and that the Office of Juvenile Justice and Delinquency Prevention has really been in a leadership role. I would ask you to consider this as an area of need. We have scaled down the funding. It had been $135 million in President Carter's fiscal year 1981 request. We scaled it down to $70 million. It is really sort of limping along at that figure. But we would ask you to consider the findings that we have made.

There has been strong preference on the committee to retain it, realizing that we are in a limited, holding pattern until the economy will recover and we can do more. I know if you had more money, you have said you like the program. It is just a matter of preferences. I would like your reconsideration on that.

Mr. SMITH. As you know, our basic thinking on that is certainly in sympathy with the goals of that program. The Federal money provided to fund it, however, was essentially seed money. We think that that having been the case this is a function that now is really an appropriate function for the States and localities to carry on with rather than the Federal Government. It is certainly true that under the justice assistance program States can use those funds for certain juvenile justice programs.

LONG-RANGE JUSTICE PROGRAM

Senator SPECTER. Mr. Attorney General, Senator Laxalt was referring to some of the issues which he and I discussed on the Criminal Law Subcommittee of Judiciary as well as on this committee in terms of a comprehensive program which my staff and I have worked out on a long-range justice assistance program. I submitted that to you sometime in January. It is a subject I touched on very briefly in our meeting with the President a week ago Monday.

For the record, and at this time, I would ask for your consideration of this in terms of the long-range goal. The essence of it is calling for an increased Federal expenditure of 1 percent of the Federal budget under the category of domestic defense, which is a subject that you have spoken to and Chief Justice Burger has spoken to. I realize that this is not something which is going to be accomplished overnight, given the limited resources which are available for the administration, but this program does direct itself to a number of successful experiences on calendar control, expediting, prompt trial of cases, to get people off bail before they commit more offenses, the sentencing issue, the rehabilitation issue, so that we don't turn out functional literates without a skill and they go right back to a life of crime, something that Senator Laxalt alluded to, and also the issue of prison construction, which I join Senator Laxalt and Senator Dole and others in a feeling we are really going to have to direct your attention in a very big way just as soon as we have a recovery and have some funding available.

Have you had a chance to look in any way at the document which we sent you?

Mr. SMITH. I have not, but it is in our shop and it is being reviewed.

Senator SPECTER. It has been discussed by your staff and my staff. I am going to be introducing a bill on it, realizing that it is not ripe for action, but some of these programs take a long time and require a lot of analysis and thought. It may be something we can direct our attention to as time passes and we have more of an economic recovery.

Mr. SMITH. Yes.

CAREER CRIMINAL BILL

Senator SPECTER. Mr. Attorney General, there is one specific bill that I want to come back to. This is something that you and I have discussed before. We discussed it with the President. That is the career criminal bill.

I think we may be on the verge of getting language which is acceptable to the Department of Justice, although we still have a problem with the National District Attorneys Association. We were caught in the vice on this bill. So far as I was concerned, I was prepared to do it either way. Justice felt they ought to have the final say, and the National District Attorneys Association felt it wanted to have the ability to stop the prosecution, so-called veto power, and this is the language we have finally worked out. Let me just read it to you, if I may.

> Ordinarily armed robbery and armed burglary cases against career criminals should be prosecuted in State court. However, in some circumstances such prosecutions by State authorities may face undue obstacles. Therefore, any such case lodged in the office of the local prosecutor may be received and considered for Federal indictment by the Federal prosecuting attorney, but only upon request or with the concurrence of the local prosecuting authority. Any such case presented by a Federal investigative agency to the Federal prosecuting attorney, however, may be received at the sole discretion of the Federal prosecuting attorney.

If you have any view on that now, I would be pleased to hear it, or if you would prefer to respond after studying it at some greater length, I would understand that.

Mr. SMITH. It would be the latter. We feel we need to have conversations with the LEAA on that overall subject because, as you so well know, they do have some very strong feelings on this subject. I just don't know how that is likely to be resolved, but it certainly requires a good deal more discussion. We do expect to be discussing that matter with them. It seems like it ought to be a simple concept, but it isn't. I haven't seen that language, but we would certainly be glad to take a look at it.

CLOSING OF ANTITRUST DIVISION FIELD OFFICES

Senator SPECTER. I would appreciate it if you would turn to it as soon as you can, consistent with the other demands on your time. We are anxious to process the bill out of committee and move ahead on it.

One final question, Mr. Attorney General, and that relates to the concern that some of my constituents have expressed about the possibility of field offices of the Antitrust Division being closed. We get some rumors that the field office in Philadelphia and perhaps the field office in Cleveland may be subject to being closed. Would you comment on that?

Mr. SMITH. This, of course, is a continuing matter of administration and the most effective way to do the job that needs to be done. I can't comment with respect to the specific offices that you mentioned because I am not sure I know what the status is there. We have recently merged the office in Los Angeles. You always have the continuing problem of how do you do the job in the best way and the most efficient way and at the least expense. Of course, that involves a lot of pluses and minuses. So I can't say that we don't consider these possibilities. I can't tell you exactly where we are with respect to those two. But I will be glad to let you know.

Senator SPECTER. Would you let us know?

Mr. SMITH. Certainly.

NOMINATIONS—JUVENILE JUSTICE AND JUSTICE STATISTICS

Senator SPECTER. I know I for one, if you would consider it, would consider it appropriate to consult with the committee as to any plans you have so we may have some input. We realize the final judgments are Executive judgments, but if we could have some input, I think it would be useful.

One more matter very briefly. The administration has forwarded to us nominations for the Administrator of the Office of Juvenile Justice and Delinquency Prevention, Mr. Regnery, and Mr. Schlesinger for the Bureau of Justice Statistics. The question in my mind is what is your thinking? There have been some suggestions to deleting these offices, but at the same time you have forwarded the nominations. Is that in thinking you want to have these nominations in place if you move ahead?

Mr. SMITH. Yes. There is always that question of reorganization there, but we have to still carry on business on a day-to-day basis. So we have to proceed on the basis of existing structure, pending its actual change, rather than its contemplated change. Hence, these nominations.

FEDERAL TORT CLAIMS ACT

Senator SPECTER. One final comment, on the Federal Tort Claims Act. That is an issue which your Department had wanted to pursue. I have been working with Mr. Schmults on that. I just wanted to say we are prepared to move ahead.

Mr. SMITH. I am delighted to hear that because that is one change we think is badly needed.

Senator SPECTER. One of the terrible problems we have is the great difficulty in coming back to these issues. We had a series of meetings. Senator Grassley and I have been working on that subject. Then we had scheduled for December and December turns into January, February, March, and soon into April. But I want to say, since we are sitting and talking, we are prepared to move ahead on that and find some solution.

Mr. SMITH. We will certainly support that to the fullest.

Senator SPECTER. Thank you very much, Mr. Attorney General. Thank you, Mr. Chairman.

ORGANIZED CRIME DRUG ENFORCEMENT

Senator LAXALT. I thank the Senator.

On behalf of the members of the subcommittee, I would like to welcome to the hearing Senator Lawton Chiles of Florida. He has some questions to address to the General. We know that no Senator has a greater interest in the activities of justice, particularly in the crime area, than Senator Lawton Chiles.

Senator CHILES. Thank you, Mr. Chairman. I appreciate the opportunity to be here.

I did want to ask you a couple questions, General. First, recalling the announcement that you and President Reagan made last October regarding the establishment of the 12 crime task forces: that announcement pointed out that they would be controlled by you and your designee and the initial funding would be under the direct control of the Department of Justice. The fact sheet accompanying the announcement said the President decided to fund the task forces at the level necessary to do the job and that once the task forces were fully operational, an additional $160 to $200 million would be spent for this year.

As you know, last December the Congress approved $127.5 million for the program for fiscal year 1983. The 1984 request is only $84.6 million, with a $34.9 million reduction explained as nonrecurring cost.

I wonder how we explain this diminishing level of support for the task force initiative. It seems to me that I wonder if that is consistent with the President's decision to fund that task force in an effort necessary to do the job.

Mr. **Smith**. Senator, I think it is actually not a reduction. It is an increase. The total figure for 1984 will be in the neighborhood of $185 million. I think that is right.

Mr. **Rooney**. That is correct.

Mr. **Smith**. The reason why the figure that you referred to is there is because this $185 million is spread out into a variety of different items. For example, in 1983, the whole $127 million was in the Justice Department budget. In 1984, certain other aspects are in the Treasury budget, not the Justice budget. The components add up to $185 million.

Kevin, you can run through that, if you care to, if you would like to have that information.

Senator **Chiles**. Yes; I would like that.

Mr. **Rooney**. Senator, $106 million is in our budget, which relates to the numbers you were citing. There is $49 million in the Treasury Department budget, which has been transferred out of our appropriation to the Treasury. Then there is another $28 to $30 million that is directly in the FBI appropriation this year which relates to some of the items that were funded this current year with the task forces.

Senator **Chiles**. I would appreciate it if you would submit to the committee that listing so I might see a breakdown.

Mr. **Smith**. Certainly.

[The information follows:]

ORGANIZED CRIME DRUG ENFORCEMENT

[In thousands of dollars]

	Fiscal years—	
	1983	1984
Law enforcement	$92,569	$69,619
DOJ Law Enforcement	(42,225)	(55,563)
DEA Intelligence (Air-Wing)	(2,000)	(..........)
DEA automation	(4,000)	(5,800)
FBI automation	(16,000)	(5,000)
FBI voice privacy	(12,000)	(..........)
State and local costs	(1,628)	(3,256)
Other Federal law enforcement: Treasury and Coast Guard	(14,716)	(..........)
Prosecution	11,731	17,630
Corrections	23,000	16,000
Policy and Management	200	2,700

ORGANIZED CRIME DRUG ENFORCEMENT—Continued

[In thousands of dollars]

	Fiscal years— 1983	Fiscal years— 1984
Governors' project	(100)	(100)
Annual report	(100)	(100)
President's Commission on Organized Crime		(2,500)
Total	127,500	105,949
Requested by Treasury		48,867
President's Drug Task Forces		(32,867)
Customs Air-Wing		[1] (16,000)
Requested in FBI appropriation in 1984 (funded in OCDE in 1983)		28,000
Voice privacy		(12,000)
ADP		(16,000)
Total		182,816

[1] Not directly in support of Task Forces.

Note: Additional funds are also requested for the Federal Prison System in the Buildings and Facilities appropriation. The additional bedspace provided will also support the OCDE Task Force efforts.

COAST GUARD APPROPRIATION—OCDE

Senator **Chiles**. When Admiral Gracey was testifying before this committee on March 3, we learned that $3 million of the $127.5 million that you seek for the task forces in 1983 is scheduled to be transferred to the Coast Guard. In your 1984 request, I have not been able to see any request for reimbursement for the Coast Guard.

When Admiral Gracey told us he is standing by to participate on an as-needed basis, it seems to me there is nothing specifically in the Coast Guard budget dedicated to the task force operation. Is that another item that I have overlooked?

Mr. **Smith**. We will include that in this report that we submit.

Senator **Chiles**. Is there an item for the Coast Guard?

Mr. **Rooney**. I don't believe in 1984 there is, Senator. There is a reimbursement this year that we plan to make.

Mr. **Shaffer**. Part of the problem, Senator, is that when this budget was formulated, it was still not decided whether or not the south Florida task force was going to be perpetuated. That is where most of the money is being spent by the Coast Guard. The 12 new task forces may have some interdiction role, but a lot of their resources are going to go other places in the country where the Coast Guard may not be as significant. As a result, there were not specific dollar amounts included in the 1984 budget to reimburse the Coast Guard.

Senator **Chiles**. My understanding is the south Florida task force is going to be kept intact.

Mr. **Shaffer**. Yes, it is.

Senator **Chiles**. And you are putting together a budget for that?

Mr. **Shaffer**. We are considering how that would be funded. We do have requirements associated with the task force. We are looking at the alternatives.

Senator CHILES. Can you give me some idea of when we will get some kind of figure of how that will be funded? Again I find when I talk to any of the people that have been involved and the agencies that have been involved that they don't know what the story is.

Mr. ROONEY. We are right now reviewing those costs for Florida. We expect, if we are making an additional request, to be talking to OMB pretty soon regarding the 1984 budget.

Senator CHILES. So this will be a supplemental.

Mr. ROONEY. It will be an amendment for 1984.

Senator CHILES. Again, as soon as you have information on that, I would like to receive that, or have the committee receive that.

Mr. ROONEY. Certainly.

MARIEL CUBANS

Senator CHILES. The other question is, General, as you know, the Mariel Cubans which entered the United States in 1980, some of whom were undesirables that Castro just fostered upon us, a number of them were actually criminals and had criminal records in Cuba and were even sent to us directly from the prisons. In coping with that Mariel invasion, in fact Attorney General Civiletti paroled most of the entrants into the community for 6 months. That was followed by an additional 6 months 'extension. Now the Reagan administration has extended these paroles for an indefinite period of time. So all of these refugees are in under a parole.

To control immigration is certainly a Federal responsibility. Placing illegal immigrants into the community and into Florida was a Federal decision. Since the Mariel Cubans have been paroled by the Federal Government into south Florida, we have a number of these undesirables who have been convicted of further crimes, felonies. The State of Florida State prisons now hold 268 Mariel Cubans that are convicted of felonies. These are not misdemeanors. They have a 10- to 15-year average sentence. That is costing the State of Florida over $50 million a year to maintain custody of Federal parolees that were brought here by a decision of the Federal Government.

Our State prisons are under court order to reduce overcrowding by 1985. The Florida State prison, in addition to reducing overcrowding, also planned to accommodate another 3,000 to 5,000 prisoners by 1985, based on some laws we are passing, but a lot that are additional efforts of Florida itself to try to rid itself of some of the crime.

I understand that the State has talked to you about revoking parole of Mariel Cubans who have been convicted of felonies and taking those people into Federal custody. It seems to me that that certainly should be a federal responsibility. I wonder what decision, if any, you have made in that regard.

Mr. SMITH. Actually, Senator Chiles, you may know the Federal Government currently has approximately 1,000 Mariel Cubans in detention status at the U.S. Penitentiary in Atlanta, Ga. In addition, we have accepted some 170 sentenced Florida State offenders, including Mariel Cubans, in other Bureau of Prisons facilities. We have accepted these State inmates in order to help reduce overcrowding in Florida's prisons. I might note that many of these 170 inmates have long sentences and we will expend approximately $30 million over the next 25 years for their custody.

That does not represent any determination that it is the responsibility of the Federal Government to house in prisons people Mariel or otherwise, who have been convicted of violations of State and local laws. It is part of an effort to work with the State to resolve that problem on an ad hoc basis, to the extent that it can be done.

REVOCATION OF PAROLE-ALIENS

Senator **Chiles**. General, why should we not revoke the parole of someone who comes into this country, certainly under circumstances like the Mariel, but comes into the country and then is convicted of a felony in any of the jurisdictions? Why should that person continue to be paroled and be allowed to remain under that status and remain in this country and become a burden of the State or Federal Government?

Mr. **Smith**. Actually, Senator, that is the lesser of our problems in this respect. We have problems with people who are in Atlanta who have been determined to be as dangerous to society as any people that we house anywhere. We are right now stuck with those people because Cuba will not take them back. We have been involved in litigation with respect to how many of those people can we keep there and for how long.

Senator **Chiles**. Recently a number of them were released and they went right to Florida.

Mr. **Smith**. I am sure some of them are in Florida. The whole problem you are mentioning is an extraordinarily difficult one. Right now there is no answer to it, absolutely no answer to it, until such time as Cuba is willing to take them back.

Senator **Chiles**. I guess the real question is why should the State of Florida be imposed with the burden of what was based on a Federal decision and is Federal policy and is not State policy and these are Federal parolees?

Mr. **Smith**. They committed violations of State and local law.

Senator **Chiles**. That is right.

Mr. **Smith**. As I say, we did not accept the proposition that that makes it a Federal responsibility.

Senator **Chiles**. It is almost like our Federal Government, General, is being as obstinate as Castro is. Castro is saying we won't take these people back. From our State government standpoint, it is almost like our Federal Government is saying to our State government you shoulder this responsibility. You pay the cost of this.

Mr. **Smith**. But, you know, it is a very complicated problem.

Senator **Chiles**. I understand it is very complicated.

Mr. **Smith**. For example, the whole subject of detention nowadays is tied up in litigation.

Senator **Chiles**. These aren't people that we have to have the problem of detention with, which we are detaining them. It is a question of cost more than anything else. Now it is whether the Florida State government should have to bear the burden of cost for what is really a Federal decision and a Federal problem.

Mr. Smith. I think you mentioned that it was costing the State $50 million. It will cost the Federal Government $30 million with respect to the Florida State prisoners which we have taken, which is certainly sharing part of the burden at least by the Federal Government in that respect. As I say, this has been done not on the basis of any determination of who has the responsibility. It has been done on the basis of cooperation.

FEDERAL ASSISTANCE—DETENTION OF ALIENS

Senator Laxalt. It seems to me that we ought to explore some way of finding additional Federal help. I don't think anybody questions the thinking that the Federal Government is greatly responsible. The State of Florida is almost, to a great extent, an innocent victim. To cause them to carry these costs that they didn't create, doesn't seem to be all that fair.

So as the Senator indicates, we are talking essentially about money. The detention is taking care of itself. Maybe we should focus a bit more on that to see if we can make some additional provision here to cause Florida to be helped a bit more.

Senator Chiles. I thank the chairman. There has been some effort, as the General has pointed out. We feel like when the Federal Government is sharing $30 million and we are sharing $50 million, that is not exactly the way the proportion stands on the ability to pay.

Senator Laxalt. I don't think it is right. I think we ought to look at it.

Senator Chiles. I thank you.

Mr. Smith. Yes. I just want to say it is a very complicated issue. It is one that involves considerations that could extend way beyond the State of Florida.

Senator Laxalt. You should have a big dropoff on Fidel one of these days. [Laughter.] A quick solution to the problem.

Mr. Smith. I suspect that has been thought of. [Laughter.]

Senator Chiles. Thank you very much.

Senator Laxalt. Thank you, Senator Chiles.

I think that is about all we have for you, General. I apologize; with the shortness of time we can't have a spirited discussion on busing. [Laughter.]

Mr. Smith. I will just refer you to last year's transcript. [Laughter.]

SUBMITTED QUESTIONS

Senator Laxalt. Thank you, General. We have additional questions which we will submit for your answers.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR LAXALT

Equipment Projects

The Department has asked for over $175 million in new ADP, Voice Privacy and Litigation support technologies. This amount breaks down into a number of specific projects. Please provide the Committee a Departmental priority list of these projects.

The Department's priority ranking of these projects as proposed to and approved by the President is as follows:

Project	In Millions of Dollars
. Organized Crime Drug Enforcement - automation support to the Federal Bureau of Investigation ($5 million and the Drug Enforcement Administration ($1.8 million)..................	$6.8
. INS - implementation of long-range ADP plan.............................	16.0
. INS - purchase of radio, infrared intrusion and other communication systems.............................	3.7
. DEA - Domestic enforcement vehicles....	4.5
. FBI - Voice Privacy radio systems, 5 fixed-wing aircraft, one helicopter, physical surveillance, audio collection, field recording and photographic processing equipment.........	48.4
. DEA - purchase of 300 mobile and 300 portable radios......................	1.8
. Civil Division - automated litigation support primarily in the Federal Programs, Torts and Commercial Litigation programs..................	6.1
. Criminal Division - minicomputer and automated word processing systems....	0.7
. FBI - implementation of Field Office Information Management System, enhancement of FBI central computer center, further implementation of the Intelligence Information System, Organized Crime Information System, and Investigative Support Information System. Funding is also included for rentals, contracts and equipment...........................	34.1

. DEA – relocation of Central Computer Facility............................	1.7
. FBI – Other field programs.............	$12.0
. Justice Management Division – strengthen and upgrade Department-wide automated administrative systems...............	1.9
. Civil Rights Division – upgrade automated office information systems......	0.3
. Civil Division – hardware and software for fully automated Civil Division work processing system for attorney and clerical personnel.......	0.8
. DEA – Laboratory equipment.............	1.4
. FBI – implementation of AIDS-III automated fingerprint identification......	41.7
. Community Relations Service – purchase of data processing system............	0.1
Total.............................	$182.0

QUESTIONS SUBMITTED BY SENATOR HOLLINGS

Vacant District Judgeships

It is my understanding that there are four District Judgeships that have been vacant for about a year. There is one in the Southern District of New York which has been vacant since November 30, 1981; another in the Eastern District of Pennsylvania since January 22, 1982; one in the Eastern District of Louisiana since March 4, 1982; and finally one in Central District of California vacant since March 26, 1982.

What has caused these judgeships to be vacant for so long?

Not all of these judgeships have been vacant for the stated periods. The correct dates are as follows: Southern District of New York, May, 1982; Eastern District of Pennsylvania, January, 1982; Eastern District of Louisiana, March, 1982; and the Central District of California, March, 1982.

Does the President intend to nominate persons for these judgeships?

The President intends to nominate persons for those and all other vacant judgeships. It is important to remember that the nomination process — through not specifically these vacancies — can be slowed by a number of factors.

For instance, the District Court nominations generally emanate from the Senate, and on occasion Senators take some time in making their recommendations. Later in the process, the FBI background check may turn up unfavorable information, or the American Bar Association may raise questions concerning a nominee's qualifications. When this happens, the issues must be resolved satisfactorily, or the process begun anew.

We are aware, though, of the need to work as quickly as possible so that the district court will not be short-handed any longer than absolutely necessary. The Department of Justice takes very seriously its role in the judicial selection process, and will continue to proceed with all proper speed.

Please provide a list of the circuit and district judgeships now vacant, the date of the vacancy, and the nominations to those judgeships.

District	Date of Vacancy	Remarks
E.D. California	1/83	
C.D. California	Two, 9/82 & 9/83	
N.D. California	10/82	John P. Vukasin nominated
Connecticut	1/83	
D.C.	1/83	
N.D. Florida	1/83	
M.D. Florida	11/82	
S.D. Florida	12/82	
E.D. Louisiana	3/82	
Maine	6/82	
Maryland	12/82	
S.D. Mississippi	10/82	William H. Barbour nominated
E. & W. Missouri	5/82	
Nevada	10/82	
New Jersey	2/83	
New Mexico	7/82	
S.D. New York	5/82	
E.D. New York	6/82	

E.D. Pennsylvania	Three - 1/82, 7/82 & 9/82
Puerto Rico	9/82
E.D. Tennessee	Two - 8/82 & 9/82
W.D. Tennessee	8/82
S.D. Texas	12/82
S.D. West Virginia	2/83
E.D. Wisconsin	2/83

Circuit	Date of Vacancy
Fourth	11/82
Fifth	12/81
Seventh	5/82
Eighth	5/82
Federal Circuit	2/82

Official Reception and Representation

Last year the Congress denied the request for an increase of $30,000 for official reception and representation expenses. The request has been resubmitted for 1984. At the time of our hearing, we found that $4,463 of the $11,264 that the Department has expended for this purpose through November 1982, had been used for gifts to foreign dignitaries as part of the Attorney General's 6-country trip in October - November 1982. That is about $750 per country so there must have been some nice gifts.

The response to our questions also indicated that some of these funds funds were used for luncheons involving only Federal employees. The purpose of these types of funds is that they are for entertainment of foreign officials overseas and in the United States, as well as for official entertainment of persons in the United States. Scarce as the funds are, and difficulty as they are to justify why does the Department allow them to be used by Federal employees to buy their own lunch when they are in their home city?

In regards to the gifts presented to foreign dignitaries by the Attorney General on his recent international meetings on drug trafficking and immigration, the Department requested and received guidance from the State Department on what would be apropriate to present to these officials. The Department has little experience in the selection of such items to be presented to "host" foreign governments and deferred to the State Department's expertise in this area. Considering the assistance that there "host" countries provided to Department officials it would have been inappropriate if the Attorney General, on behalf of the U.S. Government, had not presented them with a token of our government's appreciation.

As to your question of using representation funding to entertain federal officials, it appears that the specific event referred to is the conference/luncheon which was held in October, 1982 between officials from the Food and Drug Administration (FDA) and senior management from the Federal Bureau of Investigation (FBI). That meeting, held at FBI Headquarters, Washington, D.C., was convened at specific request of the FDA. Officials attending from the FDA included the Commissioner, Deputy Commissioner and Associate Commissioner. The total cost of this conference/luncheon was $15.00.

GENERAL ADMINISTRATION, GENERAL LEGAL ACTIVITIES AND ANTITRUST DIVISION

STATEMENT OF EDWARD C. SCHMULTS, DEPUTY ATTORNEY GENERAL

ACCOMPANIED BY:

KEVIN D. ROONEY, ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION
CHARLES R. NEILL, CONTROLLER
JOHN R. SHAFFER, DIRECTOR, BUDGET STAFF

PREPARED STATEMENT

Senator **LAXALT**. Our next witness is Deputy Attorney General Edward C. Schmults, who will present the requests of General Administration, General Legal Activities, and the Antitrust Division. Mr. Schmults, we appreciate your taking the time to be with us today to discuss the Department's management and general legal activities.

We would be pleased to hear your statement, either in full or in summary, whichever you choose.

Mr. **SCHMULTS**. Thank you, Mr. Chairman. I am glad to have this opportunity to appear before you in support of the General Administration, General Legal Activities, and the Antitrust Division budget request for 1984.

Although my statement is very short, if you would prefer, due to the lateness of the time, I would be happy to submit just this short statement.

Senator **LAXALT**. That would be just fine.

[The statement follows:]

PREPARED STATEMENT OF EDWARD C. SCHMULTS, DEPUTY ATTORNEY GENERAL

DEPARTMENT OF JUSTICE

Mr. Chairman and members of the subcommittee, I am pleased to have the opportunity to appear before you today in support of the General Administration (GA), General Legal Activities (GLA) and Antitrust Division (ATD) budget requests for 1984. The total request is for $262,595,000 and 4,448 positions. This request represents a net increase of $20,521,000 and 34 positions over the anticipated 1983 appropriations. The major portion of this increase consists of $18,085,000 for net uncontrollable increases. These uncontrollable expenses are primarily major items of expenses such as within grade increases, Medicare costs and Standard Level User Charges. We are requesting 1984 program increases totalling $11,258,000 and 24 positions.

In addition, our request includes transfers within these three appropriations related to Department library services and consumer affairs. We have proposed establishing civil immigration litigation as a separate function in the Civil Division and we are transferring resources from the Immigration and Naturalization Service and the Criminal Division to fund it.

GENERAL ADMINISTRATION

In the General Administration appropriation, the Justice Management Division is requesting $1,900,000 to strengthen or expand automated systems to support accounting and payroll operations, property and facilities management, procurement and library management. The thrust of this increase is to improve the delivery of support services and to meet increased workload demand through increased productivity without an increase in personal. This increased level of productivity can only be accomplished through improved automation support.

An increase of $429,000 is requested for the Federal Justice Research program to continue efforts in the areas of immigration policy, drug enforcement and violent crime.

These increases are offset by our proposal to eliminate continued Federal support for the State and Local Drug Grant Program. This program, originally established with seed money from the Law Enforcement Assistance Administration, is currently funded at $9,400,000. Unlike similar pilot LEAA projects in which the program costs were assumed by the locality, these projects have not been able to acquire financial support by the agencies being served. The lack of State and local financial commitment raises the question of the worth of these projects to those that they serve. Our position on these projects is that they should be managed and funded as instruments of State and local governments and that the existing Federal grants mechanism does not provide adequate oversight.

GENERAL LEGAL ACTIVITIES—AUTOMATED SUPPORT

For the legal divisions supported by the General Legal Activities appropriation, a funding increase of $7,934,000 is requested for improvements in automated litigation support, office automation systems and data processing systems. These system improvements and word processing capabilities will address case management, attorney timekeeping, workload monitoring and planning and oversight in support of all Criminal Division programs. For the Civil Division, primarily in the Federal, Torts and Commercial Litigation programs, the improvements will support trial preparation through document screening, microfilming, indexing, and operation and use of document repositories. The Civil Rights Division will be able to expand automated support to nearly half of the cases/matters requiring it and to design and implement additional microform systems for the Voting Program. Many of the cases handled by these divisions involve the processing and utilization of hundreds of millions of pages of documentary and evidentiary records. Without a substantial investment in litigation support services it is difficult to prepare effectively for settlement negotiations and trial. Our intent is to improve productivity and litigative support without a major increase in personnel.

GENERAL LEGAL ACTIVITIES—POSITION INCREASES

An enhancement of 15 positions and $558,000 is requested for additional personnel. This increase is sought to respond to the increased workload in the areas of civil rights prosecution and voting rights in the Civil Rights Division.

In other personnel related items, $287,000 is requested to fill currently authorized positions with seasoned prosecutors in lieu of inexperienced attorneys. This increase will be applied principally to the Orgainized Crime Prosecution, General Litigation, and Legal Advice programs of the Criminal Division. Nine positions and no funding is requested to allow the Civil Division to convert nine existing temporary personnel to full-time permanent status. In addition, $150,000 is included to upgrade positions to provide for planning and management oversight of the Civil Division's litigation support activity.

ANTITRUST DIVISION

For the Antitrust Division, aside from the already mentioned transfer of the consumer protection program to the Civil Division, no program changes, either increases or decreases, are requested in 1984.

This concludes my statement, Mr. Chairman. My colleagues and I will be pleased to answer any questions you or other members of the subcommittee may have.

BUDGET REQUEST

Mr. SCHMULTS. I might just mention the figures here. The total request for these activities for the Department is $262,595,000 and 4,448 positions. This request represents a net increase of $20,521,000 and 34 positions over the anticipated 1983 appropriation.

The major portion of this increase consists of money for net uncontrollable increases. Those are attributable primarily to major items of expense, such as within-grade increases, medicare costs, and standard level user charges.

Senator LAXALT. Do you have any GSA charges in there?

Mr. SCHMULTS. Yes, sir.

Senator LAXALT. Is that part of it?

Mr. SCHMULTS. Yes, that is part of it. The 1984 program increase, however, totals $11,258,000 and 24 positions. Details of the request are in my statement which I will submit for the record.

TRANSFER OF CONSUMER AFFAIRS ACTIVITIES

Senator LAXALT. Very well.

My staff has asked me to ask you a couple questions in connection with some of the details in the budget, if I may.

Why has the Department requested authority to transfer its consumer affairs activities from the Antitrust Division to the Civil Division?

Mr. SCHMULTS. Mr. Chairman, we are making that request because we believe that the consumer affairs activities are really better placed under the Civil Division. Consumer affairs activities do not really entail the typical antitrust questions. They are more in line with the cases handled by the Civil Division.

We think that while the Antitrust Division has done a good job with those cases, that they do fall more in line with what the Civil Division does. The typical antitrust questions that come up will, in any such cases, continue to be handled by the Antitrust Division. The consumer affairs responsibility was placed in the Antitrust Division in 1970. We think that it is time to move it, and it makes sense. The lawyers that handle those consumer affairs cases really aren't performing antitrust duties as such. This is more of an administrative change. It will make the Department, or at least those divisions, more effective.

LAND AND NATURAL RESOURCES DIVISION

Senator LAXALT. The next issue is condemnation. I understand it still takes on the average more than 3 years to finally resolve a condemnation case. This length of time almost invariably will increase the eventual award to the landowner. Are you doing any research within the Department on alternative settlement methods, such as binding arbitration, to reduce this time problem?

Mr. SCHMULTS. You are right about that problem. The average time is 3 years. If that is the average, then many cases, obviously, have to go on a lot longer than that.

It certainly does increase the cost to the Government. The Department has over the past taken a look at using the arbitration method to settle these cases. There are some problems with that method, but we are going to be looking at it again during the upcoming conference with the Lands Division and representatives from other agencies. We hope to bring that time down by using or making greater use of land commissioners and magistrates and other techniques. We recognize the problem and are working to reduce it. It is a difficult one.

ANTITRUST LEGISLATION

Senator **Laxalt**. I appreciate that. We had some questions addressed by Senator Rudman to the General in connection with the matters that will properly be addressed later to General Baxter. But just very generally, have you had an opportunity to focus at all on the proposed son of Illinois Brick legislation that is surfacing around here?

Mr. **Schmults**. I have not focused on it, but I understand there is a son of Illinois Brick. We would certainly be looking at it.

Senator **Laxalt**. We would appreciate your people looking at the new proposed legislation. It is more narrowly focused than before, but it presents some of the same problems that we had in the original legislation, which didn't make it here. Those of us in the Judiciary Committee are going to have to be examining this issue very quickly. I would really appreciate it if you would give it an independent look and see from your standpoint what policy considerations are there. Also we would be greatly interested in determining what has happened since we last considered this. If you recall, last time out a lot of us felt that we should let the judicial process grind and see what happens.

Apparently at least some of the former State attorneys general here in the Senate, Senator Rudman, Senator Gorton, Senator Danforth, all of whom were engaged in one degree or another as attorneys general, in this particular type of legislation, feel that what has happened is not satisfactory at least as far as the State and local governments are concerned. That is obviously a very, very serious policy consideration.

We would appreciate, as I say, having some of your people focus on this. As a general policy matter we should see whether or not the Federal Government through legislation is once again getting into the very scary areas of Illinois Brick.

Mr. **Schults**. We will certainly do that, Mr. Chairman.

SUBMITTED QUESTIONS

Senator **Laxalt**. I think that is all we have for you, Mr. Schmults, for the time being, reserving the right on some of these technical areas, of course, to submit questions to you.

Mr. **Schmults**. Fine, Mr. Chairman. Thank you very much.

Senator **Laxalt**. Thank you very much.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR LAXALT

General Administration

Federal Justice Research Program

Please provide a list of the Attorney General's research projects conducted in 1983 and the projected projects in 1984.

Research Projects Conducted in 1983

Study of cross-designation programs/coordination between federal, state and local prosecutors

Public Policy Issues in the Development of Alternative Forms of Dispute Resolution

A Guide to Combat Fraud and Abuse in State Procurement Systems

Interbranch Seminar on the Administration of Justice (Williamsburg Conference)

U.S. Supreme Court and federal appellate advocacy for state and local government attorneys

Conference on the Office of the Chief Justice of the United States

Analytic Report on the Inspector General Program

Projected Studies

A Study on the Effect of the Speedy Trial Act on Prosecutorial and Investigative Activities

A Study on the Feasibility of Shared Concurrent State/Federal Administration of Prison Facilities

Law Enforcement Coordinating Councils (LECCs)

> A study of the most effective committees and the factors contributing to their productive operation

Study of Victim/Witness Assistance

> The applicability of local victim witness assistance programs to a federal victim/witness program

Study of effective investigator/prosecutor relations in developing complex cases (especially financial investigations, medicaid frauds, etc.)

A Survey on the Impact and Characteristics of Illegal Aliens

> This study would provide information to assist in implementing proposed reform legislation and in operational improvements within the existing laws

A study to identify new technology in narcotics law enforcement
Comparative Study of Courts of Last Resort

On page 47 of the budget justification, you list a number of studies that were completed in 1982 and another study as being completed sometime in 1983. Further, you are requesting an increase over last year of $429,000. What were the costs of the studies listed on page 47 and what corrective actions if any resulted from these studies?

Costs of the studies listed on page 47 of the justifications were:

Federal Career Criminal Research Project	$300,000
Investigation and Prosecution of Concurrent Jurisdiction Offenses	$274,000
Interrelationship of COURTRAN/PROMIS/SENTRY Automated Systems	$62,623
Report on the Role of the Courts in American Society	$37,000
Study of the Costs of Civil Litigation	$1.9 million
Conference on the Office of Chief Justice	$8,000

Research studies funded by the Federal Justice Research Program do not necessarily immediately result in changes in departmental operations. The court related studies: Cost of Civil Litigation, Report on the Role of the Courts, Conference of the Office of the Chief Justice, the Interrelationship of the Courtran, Promis, Sentry were prepared to improve understanding and provide policymakers with substantive information on these subjects. For example, the study on the role of the courts - the goals of this effort were to assist in understanding the changing role of courts in American society and to offer some insight into how courts could play an even more constructive role in the future.

The studies affecting the U.S. Attorneys offices have been forwarded to them for their use. The Career Criminal Research project resulted in a set of criteria for identifying career criminals. Each U.S. Attorney has been encouraged to review and use those criteria as appropriate in deciding whether to prosecute. The Concurrent Jurisdiction Offenses Study is being used by the LECCs in their coordination activities.

What studies do you have planned for the next year and what specifically do you hope to accomplish?

Planned Studies

A Study on the Effect of the Speedy Trial Act on Prosecutorial and Investigative Activities

This project is an effort to examine the impact of the Act after the effective date of the sanctions on the manner in which federal criminal cases are investigated and prosecuted.

A Study on the Feasibility of Shared Concurrent State/Federal Administration of Prison Facilities

This study will identify key legal, political, admininstrative and correctional features and develop theoretical models.

Law Enforcement Coordinating Councils

The most effective committees and the factors contributing to their productive operation will be analyzed for adoption by the other LECCs.

Study of Victim/Witness Assistance

To assess the applicability of local victim witness assistance programs to a federal victim/witness program.

Study of effective investigator/prosecutor relations in developing complex cases (especially financial investigations, medicaid frauds, etc.)

A Survey on the Impact and Characteristics of Illegal Aliens

This study would provide information to assist in implementing proposed reform legislation and in operational improvements within the existing laws.

A study to identify new technology in narcotics law enforcement

Increased use of advance technology by major drug trafficking organizations necessitate the development of strategies to counter their use. This study would be the first step in such a Research and Development effort.

Comparative Study of Courts of Last Resort

A comparative study of courts of last resort in common law and non-common law jurisdictions to show how such courts cope with the crisis of exploding litigation.

You stated that the $429,000 in additional funding is to continue on-going projects. Is the $429,000 needed because these original projects overran their original estimates? If so, what is the justification for the overruns?

No. There were no cost overruns.

What is the predominant method used when entering into these contracts? That is, are they fixed price, cost plus fixed-fee, etc.?

The predominant method used when entering into in contracts is cost plus fixed-fee.

Why have you preferred one method of contracting over the others and do you believe it is the most cost effective method of contracting?

The cost plus fixed-fee method is more suitable for research where the level of effort must be estimated and there are uncertainties concerning how the work will be carried out.

Who were the predominant contractors for the past studies? Can you provide a list of contractors for the studies completed in 1982?

List if Contractors:

INSLAW, Inc.:	Career Criminal Research Project Investigation and Prosecution of Concurrent Jurisdiction Offenses
International Business Services:	Interrelationship of COURTRAN/PROMIS/SENTRY Automated Systems
Institute of Judicial Administration:	Report on the Role of the Courts
University of Wisconsin:	Study on the Costs of Civil Litigation
White, Burkette, Miller Center of Public Affairs University of Virginia:	Conference on the Office of Chief Justice

Tax Division

Under the title, "Justification of Program and Performance", you have cited the Flamingo case as an accomplishment, and a controlling precedent for future years:

Has a new rule been established by the Flamingo case which requires the accrual as income of unenforceable gambling debts for the first time?

No. Although Flamingo is the first case dealing specifically with the accruability of unenforceable gambling debts, the Ninth Circuit's decision in that case that legal enforceability is not always a necessary prerequisite to accruability breaks no new ground. On the contrary, several other courts, including the Supreme Court, have reached similar conclusions. For example, in Continental Tie & Lumber Co. v. United States, 286 U.S. 290 (1932), income was paid to the taxpayer's railroad subsidiary in 1923 as an award by the Interstate Commerce Commission pursuant to Section 204 of the Transportation Act of 1920, ch. 91, 41 Stat. 460, for lost revenues during a period of government control of the railroads. Although the taxpayer contended that the award was accruable in 1923, the year the award was determined and paid, the government contended that the amount was accruable in 1920. Although the Court agreed with the taxpayer that in 1920 "no proceeding was available to compel an allowance [of the award], or to determine the elements which should enter into the calculation," it nevertheless held that the unenforceable award should be accrued in 1920 (286 U.S. at 295): "The right to the award was fixed by the passage of the Transportation Act. * * * Petitioner's right to payment ripened when the act became law" (ibid.) The Court thus rejected the taxpayer's argument that its unenforceable claim did not amount to a fixed right to income for purposes of the "all events" test.

A similar argument was presented to the Supreme Court on brief in Schlude v. Commissioner, 372 U.S. 128 (1963). Although the Court did not discuss it, its decision requiring accrual necessarily rejected it. See Travis v. Commissioner, 406 F. 2d 987, 989 (6th Cir. 1969).

The courts of appeals are in accord with the foregoing analysis. In Barker v. Magruder, 95 F. 2d 122, 123 (D.C. Cir. 1938), the court rejected the argument that usurious interest, unenforceable under District of Columbia law, was not accruable as income because the government should not be permitted to tax, under the claim of income, an amount of which, under the law, the taxpayer cannot enforce payment." In holding that such interest was properly accruable the court stated (id. at 122), "[t]he correct answer, as we think, depends not so much, as appellants urge, upon the legal right to enforce collection as upon the existing probability of its being received." The Court of Claims reached the same conclusion with respect to the accruability of usurious interest. Barker v. United States, 26 F. Supp. 1004 (1939). Likewise, in Automobile Insurance Co. v. Commissioner, 72 F. 2d 265, 268 (2d Cir. 1934), the court upheld accruability of wartime damages payable by the Mixed Claims Commission, even though such payment was not enforceable by the taxpayer. Travis v. Commissioner, 406 F. 2d 987 (6th Cir. 1969), is to the same effect. There, the court held that the taxpayer was required to accrue amounts due it on installment contracts for dance lessons even though under state law the right to receive the installments was not legally enforceable because the contracts were executory. See also Eastman Kodak Co. v. United States, 534 F. 2d 252 (Ct. Cl. 1976) ("The 'all events' test * * * looks to a liability that is so fixed that the fact of liability is certain and the amount thereof reasonably ascertainable, although not necessarily legally enforceable").

Will casinos which must accrue gambling debts for the first time be allowed a bad debt reserve, even though the debts are not enforceable?

Casinos clearly are entitled to a deduction for any gambling debts which are accrued but not ultimately paid. Whether this deduction should be under Section 165 as a loss in a transaction entered into for profit or under Section 166 as a bad debt loss is currently an open question. In the Flamingo case, the Commissioner allowed the taxpayer a bad debt reserve deduction under Section 166(c) of the Code. See Flamingo Resort, Inc. v. United States, 664 F. 2d 1387, 1390 n.4, (9th Cir. 1982) cert. denied ___ U.S. ___ (1982). On the other hand, in Desert Place, Inc. v. Commissioner, 72 T.C. 1033, reviewed by unpublished memorandum (9th Cir. Dec. 16, 1982), the Commissioner took the position in the Tax Court that the taxpayer was entitled to a loss deduction under Section 165 rather than a bad debt deduction under Section 166. On appeal, the Ninth Circuit declined to decide the matter and remanded the case to the Tax Court for its determination as to the appropriate deduction.

If new rules have been established for the accrual of gambling debts and the allowance of a bad debt reserve, is the Internal Revenue Service planning to allow the casinos a transitional period to adjust gradually to this change in the law?

The allowance of a transitional period is a matter within the administrative discretion of the Commissioner of Internal Revenue. We have not received any information as to the Commissioner's intentions in this regard.

Will the Flamingo decision allow taxpayers to accrue unenforceable debts as deductions, and thus reduce current revenues?

It is the considered view of officials of the Tax Division and the Internal Revenue Service that the decision in Flamingo is tied closely to the unique facts pertaining to the operations of legalized gambling casinos. Consequently, we feel, as does the Internal Revenue Service, that the decision in Flamingo will not, to any significant degree, allow taxpayers to accrue deductions for expenses not permitted under existing law (most notably reserves for estimated future expenses). Reserves for future expenses are not accruable for tax purposes because they represent contingent liabilities as to which all the events necessary to fix each individual instance of of liability have not occurred even though the amount of future liabilities may be highly predictable in the aggregate. Reserves for future expenses thus do not satisfy the "all events" test. Nothing in the decision in Flamingo leads to a contrary conclusion. See Brown v. Helvering, 291 U.S. 193 (1934); Nightingale v. United States, 684 F. 2d 611, 614-615 (9th Cir. 1982).

Civil Division

Automated Litigation Support

On page 5 you are proposing the reprogramming of $1,142,000 between the Civil Division and the other legal divisions to continue the Department's priority to automate litigative support activities in the Civil Division during 1983.

a). Of the $1,142,000 being reprogrammed, what is the share contributed by each of the other legal divisions? Also, what effect if any will this have on their operations?

b). What litigative activities in the Civil Division are we attempting to automate and what is the status of the project? How will the automating of these activities improve the operations of the Civil Division?

How much have we spent to date on this project? What will be the total cost of the project when completed?

In 1982 the Division spent $3,244,000 on automated litigation support. Of these funds, $2,183,000 were provided by the Congress through a supplemental appropriation and the balance of $1,061,000 was taken from regular appropriations. These funds were used to provide automated document handling in four of our largest families of cases; asbestos, radiation, student loan frauds and Agent Orange. Although the supplemental appropriation was not enacted until early September, the Division had begun contract planning, advertising and negotiation sufficiently in advance so that contracts were awarded prior to the end of September.

On November 30, 1982, the President requested amendment of the Civil Division's pending 1983 budget request to provide $2,291,000 for the program in 1983. The Continuing Resolution subsequently enacted did not provide these funds. These funds had been sought to continue the contracted support services for the asbestos, radiation, Agent Orange and student loan fraud litigation. Because of the fast approaching court dates on many cases in these families, the Department, in order to assure that we were prepared, decided to reprogram funds from other areas to continue the effort. The funds for this particular efforts, which totalled $1,142,000, were reprogrammed from the following organizations.

Office of the Solicitor General........	$23,000
Tax Division...........................	307,000
Criminal Division......................	455,000
Lands and Natural Resources Division...	157,000
Office of Legal Counsel................	20,000
Civil Rights Division..................	180,000
Total..............................	$1,142,000

The decision to reprogram these funds was based on the high priority of the cases for which the 1983 budget amendment had been sought. These cases involve billions of dollars in potential losses to the Government. The reprogramming was spread across all the other legal divisions in order to meet this critical need and minimize the affects on each division. The Civil Division also added $217,000 of its own funds to this effort. Each of the involved organizations will defer a part of their controllable expenses to support this policy decision.

Much of the litigation which the Division handles involves massive volumes of discovery, evidentiary and transcript documents which our attorneys must be able to acquire, screen, organize, store, manipulate, rearrange, analyze and retrieve. For example, the asbestos related cases which we are now handling involve an estimated 700 million evidentiary documents and during 1983 alone are expected to produce in excess of 50,000 pages of transcripts. It simply is not possible, even with an astronomical increase in staff, to use traditional manual library and information processing techniques to manage and handle such volumes of data. If we are to be successful in defending the Government in such cases which involve billions of dollars in claims against the Treasury, we must be able to use electronic data processing techniques to manage these large document collections.

For 1984, we are seeking $6,148,000 for this program which will permit expansion of the program to all families of cases which involve large collections of documentary evidence, large numbers of claimants, numerous and/or lengthy interrogatories and depositions and lengthy hearings and trials. With the funding increase we are seeking for 1984 we expect to be able to apply these techniques to about 5,400 or 13 to 15 percent of the cases pending during 1984.

The Civil Division's automated litigation support program represents a basic change in the manner in which the Division will handle a major share of its litigation for the forseeable future. We anticipate that funds for this program will be a part of every future budget request. The level of funding in each future year will be based on an analysis of the costs to provide such services for cases to be handled during that year and the level of funding already available for this purpose. We are hopeful that at some future date, after we have achieved automation of most of the documents in several of our massive cases of long duration, the funding needs for this program will level out or actually decline. It is not presently possible to predict when this will occur.

This program is not an appendage to what our attorneys normally do; rather it is a better way of conducting certain aspects of litigation. The program will enable us in 1984 and beyond to forgo some staff increases which we would otherwise have to seek. More significant, however, is that it will enable us to maintain and to improve the quality of the legal services we provide to the entire Federal government. For example, the system will permit an attorney to conduct a computer search of a million records within a minute to locate a particular record or all records meeting a given condition. It will search the indexes of these million documents in less than five seconds for all occurences of a given name, date, organization, subject or other item. The manual search of these same documents for the same information would require several weeks of effort by several personnel. Similarly, it will permit many attorneys working at many locations access to the same documents at the same time and enable them to keep track or recall evidentiary trails, introductions of exhibits, challenges to exhibits, stipulations, and other complex events and occurences. Much of our litigation is of long duration; is multidistrict, complex and/or large; involves use of the same document collections in numerous cases; and involves multiple plaintiffs and/or defendants. The program also aids in overcoming many of the human risks which we face in this type of litigation such as the loss of attorneys who will take knowledge with them which is not otherwise recorded.

The remaining $350,000 of the $1,492,000 reprogramming was to relocate responsibility for civil immigration litigation from the Criminal Division to the Civil Division.

Tort Branch Client Relations

Involving the Torts Branch client relations program:

a). What does this program consist of and what types of problems/ issues is it aimed at resolving?

b). Are similar programs in place in the other branches of the Civil Division? To what extent has it been considered and is it needed?

The Torts Branch client relations program is aimed at maximizing the relationships between the individual client agencies and the Torts

Branch, both as an institution and as individual attorneys. It is formulated in recognition of the "captive" client status of our agency clients and has as its goal the efficient handling of litigation through effective communication and increased interaction on both a professional and personal level.

In addition, it is aimed at being able to utilize client agency attorneys in an active role in litigation under the supervision of Branch attorneys. This permits Torts Branch attorneys to litigate more aggressively and with greater effectiveness.

Included with the client relations program are such activities as:

Client luncheons every three months with guest speakers;

A Torts Symposium held annually;

An Aviation/Admiralty Law Symposium held annually;

Federal Tort Claims Act subjects;

Aviation/Admiralty Law Bulletins published quarterly; and

Client agency attendance and participation in most courts.

The goal of this comprehensive program is to ensure open lines of communication and maximum assistance in litigation being handled by Branch personnel.

All of the Branches, Offices and Staffs of the Division have similar programs although some are less formal. As examples:

The Office of Consumer Litigation participates in a number of workshops, seminars, or colloquia for Federal Drug Administration personnel. At these workshops, usually held two or three times a year, Civil Division speakers address a variety of legal and practical issues that arise in the enforcement of the Food, Drug and Cosmetic Act.

The Office also has a longstanding informal relationship with all its client agencies, the Food and Drug Administration, the Consumer Product Safety Commission, the Federal Trade Commission, and the National Highway Traffic Safety Administration, in connection with the conduct of litigation. Under these relationships, the Office attempts to involve agency personnel in the decision-making process and endeavors to assure meaningful participation by them in the litigation itself. In sum, the Office attempts to work with its clients and accommodate their wishes to the extent the clients' positions are consistent with what is best for the Government as a whole.

The Office of Immigration Litigation represents several administrative agencies on substantive immigration issues, but its principal client is the Immigration and Naturalization Service (INS). In an effort to improve its representation of the INS both immediately and in the long run, the Office has established greater liaison with INS through the agency's quarterly legal executive council meetings and through a general increase in the number of meetings with agency attorneys on all matters. Second, the Office has begun including INS attorneys in our litigation trial teams in significant cases. Finally the Office has established a program with the INS in which agency attorneys have been detailed to the Office on a one year rotational basis. These attorneys will receive assignments similar to our permanent staff, and will be replaced by new agency lawyers each year. Through these measures we are better able to anticipate and resolve problems prior to litigation, to prepare complete and prompt responses to litigative attacks on the INS, and to provide agency attorneys with a better understanding of the problems entailed in defending INS cases, which will be of benefit both to our Office and the INS in the future.

As can be seen from these examples, these programs are extremely beneficial to both the Division and the client agencies.

Use of Client Agency Attorneys

On page 110 you state that the unit receives a large number of requests from agencies to institute suits. For 1982 could you detail:

a). The number of requests received and how they were handled, i.e., number accepted, number declined, and number decision pending.

b). To what extent are the attorneys of the client agencies involved in the litigation arising from these requests, i.e., the number of special appointments?

c). What criteria are used as a basis on whether or not to extensively involve the client agency's attorneys in civil litigation?

Until the beginning of 1984, the Division's automated case mangement system will not contain docketing and tracking information on all referrals for affirmative litigation made to the Department by the various Federal agencies. At that time a program will be added to the system which will enable the monitoring of all litigation reports received from the agencies and provide the type of information you have requested on a case-by-case basis. The present system can only produce this type of data in selected areas of litigation such as fraud.

For 1982 we estimate that the Federal Programs Branch, which is the subject of your inquiry, received approximately 200 litigation reports requesting the initiation of affirmative suits. Declinations of requests are very rare and management officials of the Branch indicate no occasions in 1982 where there was a declination to bring a suit requested by an agency. There have been rare instances in which, after analysis of the background and careful review with the agency, an agency has withdrawn a referral.

The number of suits initiated as a result of these referrals during a given year does not necessarily equate to the number of referrals because of the time needed to evaluate the agency request and initiate the suit. In 1982 the Federal Programs Branch initiated 251 such suits as a result of requests received late in 1981 and throughout 1982.

The Division has developed a variety of mechanisms, both formal and informal, to make every possible use of agency attorneys to assist in the conduct of litigation. The overriding principle in all these arrangements, however, is to preserve the authority of the Attorney General as the Cabinet official responsible for representing the Government in the courts. In all such arrangements, the actions of the agencies are taken under the substantive and procedural direction of the Department of Justice.

In the areas of litigation for which the Federal Programs Branch is responsible, we have developed memoranda of understanding with some agencies such as the Departments of Labor and Energy to initiate affirmative litigation in selected program areas. The memoranda under which these suits are brought contain standards which regulate the allocation of responsibility between the agencies and the requirements which the agencies must follow in exercising the litigation responsibilities assigned to them.

In other parts of the Division we have different types of arrangements with various agencies which involve the appointment of agency attorneys as Special Assistant U.S. Attorneys to appear in court on behalf of their own agency in specific cases. These appointments are usually made on the basis of agreements reached by Division litigation managers and the General Counsel of the agency involved and represent a joint judgment that the particular agency attorney has the skills necessary to appear in court on the specific case and to deal with the substantive and legal issues in the case effectively. At most times the number of Special Assistant U.S. Attorneys working on cases under the jurisdiction of the Civil Division ranges from 25 to 50. In these cases, a senior level Civil Division attorney serves as a consultant and case reviewer and maintains oversight as the litigation proceeds.

We have found these arrangements to be extremely helpful in extending the Department's litigation capabilities. They also provide valuable learning experiences for the agency attorneys and aid in enhancing the overall quality of legal services within the agencies.

Criminal Division

Reprogramming

On page 51 you discuss the reprogramming of $1,359,000 from the other legal divisions including $463,000 from the Criminal Division for the purpose of automating litigative support activities in the Civil Division. Again, on page 91, you discuss the reprogramming of $1,142,000 for the automation of the Civil Division's litigative support activities.

How much are we actually reprogramming to support the Civil Division's efforts to automate its litigative support activities?

The amount of $463,000 was reprogrammed from the Criminal Division to the Civil Division. In total, $1,359,000 will be available to the Civil Division to automate its litigation support activities. Of that amount $1,142,000 will be derived by reprogramming from other legal divisions, and $217,000 is currently within the Civil Division's available resources.

On page 69, a number of narcotics investigative activities are described. Two of them--the Tax Enforcement Narcotic Unit and Complex Narcotic Investigation and Prosecution--indicate that resource availability may be hampering efforts.

Has the lack of adequate resources in these efforts been a problem?

If so, what is the estimated shortfall in resources?

The Criminal Section of the Tax Division, particularly the Tax Enforcement Narcotics Unit (TENU), has been active in tax narcotics investigations and prosecutions since 1980. At present, almost 15 percent (and in recent months almost 25 percent) of the total case load of the Criminal Section is narcotics and drug related. The special utility of the criminal tax process and TENU in this area has been fully demonstrated.

Notwithstanding the great demand being made on the civil and criminal trial attorneys, the Department has the resources to advance this vital Presidential enforcement effort. The Department can provide vigorous and effective support to the twelve Task Forces through (1) education and training of Task Force personnel, (2) investigative consultation and support, (3) some increase in expedited and on-site case evaluation and authorization, and (4) limited criminal tax trial support.

The Administration's new drug task force program should alleviate a lot of these problems. However, the Department will continue to maintain a mobile litigative capability in Washington to address situations that arise throughout the country that cannot for one reason or another be handled by the task forces or the United States Attorneys.

Under the Complex Narcotic Investigation and Prosecution effort, how many cases were declined in FY 1982 and what were the likely investigative and prosecutive results?

The Criminal Division does not "decline" cases in the usual sense that the word is applied. Matters are presented by investigative agencies to U.S. Attorneys' offices for a prosecutive determination.

Referrals may be declined for several reasons, none of which have to do with resource shortages. When staffing or expertise shortages arise, a U.S. Attorney may ask the Criminal Division to assume responsibility for major investigation or prosecution. The Criminal Division may be unable to honor that request due to the nature of the case, competing commitments, available attorneys and available funds. If so, the cases might be handled by the U.S. Attorney's office (by their resetting their priorities). Matters of routine complexity or difficulty are not referred to the Criminal Division; rather, these may be referred to state or local prosecutors, where concurrent jurisdiction applies, as is usual in drug cases.

The Criminal Division does not maintain statistics on cases and matters which are not accepted for action. Other than to note that referrals to state or local prosecutors take place, or that prosection by U.S. Attorneys is conducted, "results" cannot be defined for these cases.

In the near future, the resource increase and high level expertise of the 12 Regional Drug Task Forces will enable the Federal authorities to handle more of these complex and difficult major trafficker cases. While the Criminal Division will receive fewer requests from U.S. Attorney's to assume responsibility, there will be more Federal prosecutors in the Task Forces to attend to these cases.

Neutrality Cases

Recent news events have highlighted instances related to U.S. neutrality laws e.g., paramilitary training of Nicaraguan and anti-Castro groups. Can you comment on the extent of these activities and impact they have had on your workload. Also, of your workload statistics (cases and matters) how many of the pending, open and closed categories relate to cases having neutrality ramification?

The news media have reported alleged instances of military training activities in the United States by Nicaraguan and Cuban exiles. At the Department's direction, the Federal Bureau of Investigation has investigated each such reported activity to determine whether there is evidence of violations of the Neutrality Act or other related Federal criminal law. To date, no such evidence has been found.

It is important to note that unless the activities involve the illegal use, possession, transfer, transportation, receipt or making of firearms and explosives, training activities of a military nature are not per se violations of Federal criminal law.

The efforts to investigate and prosecute violations of the Neutrality Act are not limited to the reported military training activities of Nicaraguans and Cubans. Within the past two years, several cases involving military expeditions attempting to invade Cuba, and Haiti have been intercepted and the participants successfully prosecuted.

At the present time, the FBI has under active investigation 22 neutrality matters. In addition, 13 other such matters are being monitored by the FBI. It is not possible to tabulate the number of investigations that have been closed.

Evaluations

One of the objectives of the Office of Administration is to evaluate and improve the enforcement programs of the Criminal Division.

How many evaluations have been completed and on which programs?

What were the major problem areas identified and the corrective action taken?

The Office of Policy and Management Analysis (OPMA), meets its evaluation objective in three ways: performing evaluation studies, developing evaluation methodology for use by Criminal Division sections, and collecting information from the field for management purposes. The latter two activities do not yield evaluation reports but assist Division managers in identifying problem areas and assessing alternative responses. OPMA also participates in a number of ongoing evaluative activities.

Evaluation Studies

1. Forfeitures Study. OPMA worked with Justice Management Division's Evaluation Staff and the Executive Office of the U.S. Attorneys to produce a major study of the way in which the Department seizes and forfeits property used to commit crimes or bought with the proceeds of criminal activity. The study confirmed that major problems existed throughout forfeiture operations. The written evaluation produced by that study is still in draft. However, the early drafts recommended: (1) establishing a new office in the Criminal Division to provide U.S. Attorney offices with advice on the problems encountered in forfeiture litigation; (2) establishing a new organization to manage property seized for forfeiture; and (3) pursuing the forfeiture legislation that the Department presented to the Congress last year.

Partly as a result of the forfeiture study, the Departmet of Justice will soon propose a reorganization to the Criminal Division creating a new office to provide advice, and the U.S. Marshals Service is planning a new property management unit. The Department has resubmitted the forfeiture legislation.

2. Shipbuilding Claims Study. The OPMA, in conjunction with the Fraud Section, is reviewing the shipbuilding claims cases that the Division declined to prosecute. It is interviewing persons in both the Departments of the Navy and Justice involved in the investigations of these three matters. The study examines the administrative procedures used by the Navy in large shipbuilding claims and their impact on the development of successful fraud prosecutions. This examination will be helpful to the Navy in referring possible fraud allegations as well as to the Department in its evaluation, direction, and conduct of investigations of fraud in complex defense procurements.

Development of Evaluation Methodology

1. Information Systems. The Office designed and implemented the Case Management Information System (CMIS), which tracks the Division's caseload, and the Fraud and Corruption Tracking (FACT) system, which tracks referrals from the Inspectors General to the Department. The Office is currently involved in evaluating the Division's computer needs.

2. Case-weighting. A case-weighting system is being pilot-tested for use by the Organized Crime and Racketeering Section managers in assessing the relative significance of cases handled by the Strike Forces.

3. Drug Enforcement Task Forces. The Office is providing staff support in developing a system for monitoring and assessing the impact of the Drug Enforcement Task Forces.

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Data Collection for Management Purposes

SINGLE SPACED

1. Strike Force Reviews. Reviews of several Strike Forces have been conducted over the past three years to assist Organized Crime and Racketeering Section managers in their oversight responsibilities. These reviews have produced management-related information (e.g., case summaries, resource commitments, and estimates of the crime problems being addressed) rather that evaluations of Strike Force performance.

2. Time-Use Study. The Office designed and conducted a time-use survey of Division attorneys to obtain a detailed picture of the Division's activities.

Ongoing Evaluation Activities

1. Review of Law Enforcement Plans. The Office works closely with the Division's Office of Law Enforcement Coordination and the sections in reviewing the law enforcement plans submitted by the U.S. Attorneys. The Office prepared guidance to the U.S. Attorneys on the major enforcement areas for use in preparing their district plans, which serves as the basis for the Division's review.

2. National Organized Crime Planning Council (NOPIC). OMPA provides staff assistance to NOCPC, which conducts on-site reviews of each Strike Force approximately every two years.

3. Division Management Reviews. The Office developed and currently manages a bi-annual management review process through which the Division's managers assess the progress of each section and office in meeting its objectives.

Land and Natural Resources Division

Land Acquisition Section

We see that you have estimated that approximately 1,500 new tracts of land will come under condemnation proceedings in both 1983 and 1984. Will these estimates have to be revised in light of recent Congressional approval to acquire large amounts of land in West Virginia and several other States? If so, what are your new estimates?

At the present time, there is insufficient information available concerning these projects and their timing to assess their impact on our 1983 and 1984 estimates of new cases. It is doubtful that they would affect our 1983 estimates because of the usual time lag between legislation and implementation.

You have described how some condemnation cases are handled by headquarters staff, some by U.S. Attorneys' offices, and others are jointly handled. What criteria is used when deciding who handles a specific condemnation case?

The following criteria are used in deciding who handles a specific condemnation case:

(1) U.S. Attorney Office Handling. Cases in which neither the government's appraised value of the land nor the owner's claim

exceeds $100,000 are generally assigned to be handled by the U.S. Attorneys' offices.

Each case, however, is individually reviewed to determine whether it would be more appropriately assigned for joint handling or headquarters staff handling. Considerations on which that determination is made are discussed in paragraph (3), below.

(2) Joint Handling. Cases in which the government's appraised value of the land or owner's claim exceeds $100,000 are generally assigned to be handled jointly by the U.S. Attorney's office and headquarters staff. In such assignments headquarters staff participation will vary with the circumstances and may range from mere advice and counsel to actual conduct of the trial.

Each of these cases, too, is individually reviewed to determine whether it would be more appropriately assigned for headquarters handling. Considerations on which that determination is made are discussed in the following paragraph.

(3) Headquarters Staff Handling. Cases are assigned for headquarters staff handling when any of the following considerations indicates that such assignment is necessary as a practical matter or would be in the government's best interest: the availability and expertise of personnel in the U.S. Attorney's office; any conflict of interest; the nature of the issues of law involved; the relative national or financial importance of the case; the precedential possibilities of the litigation; and the need for the Division to retain a cadre of staff attorneys trained in the trial of cases. These same considerations are used in determining whether low value cases will be assigned for joint rather than U.S. Attorney's office handling.

Compensation for Redwood National Park Expansion

On June 29, 1982, Senator Laxalt wrote the Lands Division of your Department regarding outstanding claims for just compensation resulting from expansion of Redwood National Park in 1978. Senator Laxalt was concerned about the lengthy and repeated delays that the former landowners were encountering in pursuing these claims and the resulting cost increases to the government in the form of delay damages. In a response of July 27, 1982, the Lands Division set out a schedule calling for final appraisal reports to be completed in April with trial commencing September 1, 1983. The Committee now understands that the claimants have been informed of yet another delay in even that most recent schedule from April 1, 1983, to August, 1983. That has the result of pushing further into the future events subsequent to the completion of appraisal reports. The Committee has several questions regarding this matter.

Is it true that your schedule has in fact been delayed from April to August with respect to the appraisal reports?

The appraisal reports for the Big 3 timber companies are now expected to be completed by August 1, 1983, which is approximately 90 days beyond the date specified in the appraisal contract. Our appraiser, Hammon, Jensen, Wallen & Associates, advises that the delay was caused primarily because of the time spent by key personnel in negotiations with the Big 3 to try and resolve many subsidiary inventory issues that would otherwise consume an enormous amount of trial time. This delay is more illusory than real because we expect to commence negotiations on many subsidiary appraisal issues around May 1, 1983. The procedure will be similar to that now being undertaken to resolve many subsidiary inventory issues. If many of these valuation issues are settled by this procedure we will not only simplify and shorten valuation trials, but we will also shorten the time needed for pretrial discovery.

Will you in fact have the appraisal reports complete on the first of August or will there be further delays?

We expect the appraisal reports for the Big 3 timber companies to be complete on the 1st of August and do not anticipate further delays unless requested by the companies to provide time for further negotiations on valuation issues.

You recently announced a preliminary estimate for just one of the claimants, Louisiana Pacific Corporation, of $250 million exclusive of interest. This represents an underpayment for this one claimant alone to date of approximately $44 million. What is the status of the appraisals of the two other major claimants and how much will the preliminary estimates exceed their current partial payments received to date?

As indicated in our answer to question a, we expect the appraisals for the two other major claimants, Arcata Corporation and Simpson Timber Company, to be completed by August 1, 1983.

Arcata has received, to date, deposits totaling $96,865,675. The preliminary estimate of value for Arcata, subject to substantial change, is $170,600,000. Thus the preliminary estimate exceeds the amount received to date by Arcata by $73,734,325.

Simpson Timber Company has received, to date, deposits totaling $15,080,265. The preliminary estimate of value for the land and timber taken from Simpson, not including the partial settlement of $4,386,250 for Simpson's hiatus areas and Simpson's severance damage claims, is $37,000,000. Thus, the preliminary estimate for the land and timber taken from Simpson exceeds the amount received to date by Simpson by $21,919,735. This preliminary estimate is subject to substantial change.

The partial settlement we have concluded with Simpson covers, as indicated above, all of its hiatus areas and its claim for severance damages. The settlement involves the payment to Simpson of $4,386,250 plus interest, plus the conveyance by the Bureau of Land Management to Simpson of about 440.63 acres of hiatus lands outside the park, plus dismissal of the government's counterclaim for past cutting of trees by Simpson. In return, Simpson dropped all claims for severance damages and conceded that the government has good title to approximately 77.35 acres of hiatus lands inside the park. The partial settlement also accomplishes the legislative intent of removing the main timber roads from the park. Simpson will surrender possession of its K & K and B-line roads five years from October 15, 1982, (the date the final partial judgment was filed) if Simpson is paid its $4,386,250 within three years from October 15, 1982. Otherwise, there will be a two-year extension of time for Simpson to surrender possession of these roads after the

$4,836,250, plus interest is paid. A partial payment of $2,011,959 has been made (this sum of $2,011,959 is in addition to the deposits of $15,080,265 received by Simpson) and the Park Service is in the process of applying to Congress for permission to shift appropriated funds from existing projects to the Redwood project in order to pay the balance.

Costs for the park, not only in the form of higher estimates of principal amounts due, but primarily delay damages on unpaid principal balances, are escalating rapidly. I understand that at the beginning of this year, for every $1 million principal unpaid annually, damages of $650,000 are accumulating. Soon, damages will be dollar for dollar. Should the landowners not be paid additional partial payments, in light of both the increasing principal estimates and accumulating damages?

Whether additional amounts for delay in payment will have to be paid depends on the difference, if any, between the amounts already paid and the amounts of the ultimate awards (via settlements or trials). Until our appraisals are finally completed around August 1, 1983, we are in no position to state absolutely what the minimum difference may be. Of course, further interest payments can be avoided if additional funds are appropriated and deposited into the registry of the court. All interest in all cases can be avoided if original and supplemental deposits are great enough. However, whether there should be supplemental deposits is a legislative matter outside the control of the Department of Justice.

What is your current action plan and schedule for moving these claims rapidly to trial and settlement and will there be further delays?

As indicated in our answer to a previous question, we are already conducting extensive negotiations with the Big 3 timber companies in an effort to resolve many subsidiary inventory issues and we expect to commence negotiations on many subsidiary valuation issues around May 1, 1983.

We expect to be able to commence trials on unresolved inventory issues around July 1, 1983, before a commission composed of three members and two alternates. Steps are being taken now to obtain names of potential candidates to serve on this commission. We propose that this commission be composed of experts in the fields of forestry mensuration or timber cruising.

We expect to commence trials on unresolved valuation issues by February 1984, before another commission also composed of three members and two alternates. Steps are also being taken now to obtain names of potential candidates to serve on this commission. We propose that this commission be composed of recently retired individuals who have some understanding of business ventures and risk.

We are making every effort possible to expedite the settlement or trial of these cases but some matters, such as the scope and extent of formal discovery for trial purposes, are beyond our control. We will attempt to persuade the court that this phase of discovery should be kept to a minimum.

The expected trial dates set forth herein represent target dates we shall strive to achieve but we cannot guarantee that trials will actually commence on these dates.

Civil Rights Division

Voting Section

Over the last three years, how many lawsuits have been brought against districts and what have been their outcomes?

From January 1, 1980 through March 25, 1983, the Department initiated 13 voting cases as plaintiff or as plaintiff-intervenor. During that period, the Division defended the Department in 14 new cases initiated under the Voting Rights Act (VRA). In addition, we entered 15 cases as amicus curiae. Thus, the Voting Section participated in 42 new cases during that period while continuing the pursuit of litigation in a number of cases commenced prior to January 1, 1980.

Of the 13 plaintiff/plaintiff-intervenor lawsuits initiated during the relevant period, judgment in favor of the United States was obtained in 9, one was dismissed voluntarily following the Supreme Court's decision in City of Mobile v. Bolden, and three are still pending. Of the 14 defendant lawsuits, 8 resulted in decisions favorable to us, 4 are still pending and two resulted in consent decrees granting judgment (bailouts) to the suing jurisdictions. Of the 15 amicus participations, 13 have been decided favorably to the position we advanced.

These cases involve enforcement of Section five of the VRA, enforcement of other provisions of that Act, defense of Section five declaratory judgment actions, defense of bailout actions, and enforcement of federal absentee voting statutes.

Also, we have heard that many voting laws are changed that are not precleared as required by the law. How do you ensure yourself that these changes are precleared before being implemented? If you find that changes have been made, what actions do you take legally?

Over the last two years we have heard it said on a number of occasions that there are numerous changes that go unsubmitted under the Voting Rights Act. For instance, on June 17, 1981, Raymond H. Brown Director, Voting Rights Research Project, Southern Regional Council, testified before the Subcommittee on Civil and Constitutional Rights of the House Judiciary Committee that 154 North Carolina acts had not been submitted for preclearance under Section 5. (House Voting Rights Act Extension Hearings, Part 2, page 1800, 97th Cong., 1st Sess.). On February 1, 1982, Steve Suitts, Executive Director, Southern Regional Council, testified before the Subcommittee on the Constitution of the Senate Judiciary Committee that as many as 750 acts from six southern states had not been submitted as required by Section 5. (Senate Voting Rights Act Extension Hearings, Volume 1, page 612, 97th Cong., 2d Sess.). The Senate Hearings (Volume 2, page 695) reprint a report by Laughlin McDonald, Director, Southern Regional Office, ACLU Foundation, Inc., that indicates that 735 acts from five southern states had not been submitted.

Since Mr. Brown testified on June 17, 1981, Voting Section staff members have made a number of attempts to obtain lists of the purportedly unsubmitted changes in question. The ACLU responded that they did not have any list of unsubmitted changes and that in their report they had relied on information from the Southern Regional Council. On August 16, 1982, in response to our requests, the Southern Regional Council provided us with a list of 47 Louisiana acts that their research indicated had not been submitted. A check of the Southern Regional Council's list against Department records showed that 28 of those acts may not have been submitted and we sent a letter to the State of Louisana on February 9, 1983, requesting the submission of those 28 acts. Also, during the course of a recent lawsuit involving a South Carolina county we were able to examine a list of the Southern Regional Council concerning unsubmitted changes from South Carolina. We determined that many of the state acts included on the list had in fact been submitted for Section 5 review but others had not been. As a result, we have asked the state to submit 27 acts contained on that listing. To date we have been able to obtain no such information with respect to unsubmitted changes from any other state.

Generally, we believe that most voting changes that should be submitted under Section 5 are in fact submitted. However, when we learn or have reason to believe that changes may have occurred that have not been submitted we write to the appropriate officials requesting submissions.

Because the 1980 census has revealed many population changes that require redistrictings, and because redistrictings can have a significant impact on the right to vote of minorities, our primary focus recently has been on assuring that all redistrictings subject to Section 5 review are submitted. We have sent letters to all Mississippi counties that have not yet made a redistricting submission based on 1980 census data. In April 1983, we plan to send similar letters to Louisiana parishes. In the months to come we will send such letters to other countries subject to the preclearance requirement, starting with South Carolina and then Texas.

In addition, we are currently engaged in a project of checking our records for annexation submissions against information on annexations published by the Census Bureau and in a project of reviewing the State of Georgia and political units within Georgia for unsubmitted changes.

Beyond these special projects, our attorneys, paralegals, and equal opportunity specialists, in conducting litigation and investigations, in conducting pre-election surveys and election coverage, and in analyzing Section 5 submissions, are alert to discover unsubmitted changes. Finally, minority leaders and representatives of organizations representing minorities are now well aware of the Section 5 preclearance requirement and bring to our attention unsubmitted changes that they believe may be racially discriminatory.

As a general rule, requests for submissions are productive. However, if after we have requested a submission no submission is received, or if a change has been implemented prior to submission or preclearance, we will take legal action where appropriate. This could include bringing a lawsuit, intervening in a private action, or participating as amicus curiae in a private action. It should be noted that private parties have the authority to bring actions to enforce Section 5 and that such private actions are frequently filed. Finally, the 1982 amendments to the Voting Rights Act add an additional incentive for jurisdictions to comply with the Section five preclearance requirement by authorizing individual counties of states covered as a whole to bring bailout suits but requiring that bailout be denied to jurisdictions that have not complied with the preclearance requirement.

The same questions would apply to implementation of changes that you have objected to. What do you do once you find out such changes have been implemented?

After a letter of objection has been sent, we monitor the jurisdiction to make sure that the change objected to is not implemented. If a jurisdiction determines to implement a change despite an objection we will take appropriate legal action. This may include bringing a lawsuit, intervening in a private action, or participating as amicus curiae in a private action. It should be noted that private parties have the authority to bring actions to enforce Section five and that such actions frequently are brought. Also, as above, the 1982 amendments to the Voting Rights Act add an additional incentive for jurisdictions to comply with Section 5 objections by authorizing individual counties of states covered as a whole to bring bailout suits but requiring that bailout be denied to jurisdictions that have implemented changes to which objections have been interposed.

Antitrust Division

The Antitrust Division has been critized for filing an amicus brief in a pending Supreme Court case asking that the per se rule be changed to a rule of reason standard for price-related vertical restraints. But is not what the Department is doing in the Monsanto case similar to what is has done repeatedly in civil rights cases?

In Dr. Miles Medical Co. v. John D. Park & Sons, 220 U.S. 373, 404-09 (1911), the Supreme Court held that vertical price fixing is equivalent in all respects to horizontal price fixing and constitutes an unlawful restraint on alienation. In subsequent decisions, the Court continued to make that assumption. However, as Justice Holmes noted in his dissent in Dr. Miles, resale price maintenance had not been shown to be anticompetitive on balance as had horizontal price fixing, and there was no reason to believe that vertical price fixing uniformly would be anticompetitive. Moreover, economic research subsequent to Dr. Miles has provided considerable support for the proposition that in certain characteristic commercial circumstances, resale price maintenance can increase competition and improve consumer welfare. In Monsanto Co. v. Spray-Rite Corp., No. 82-914, cert. granted February 28, 1983, the Supreme Court has the opportunity to reassess the assumption on which it based the per se illegality of resale price maintenance. We have urged the court to take this opportunity as part of its long-recognized responsibility to continue the common law development of antitrust.

Similarly, the Civil Rights Division is committed to enforcing the civil rights laws. The cornerstone of civil rights law enforcement is Brown v. Board of Education, 347 U.S. 483 (1954), which itself overruled a prior Supreme Court decision. Plessy v. Ferguson, 163 U.S. 537 (1896). The United States, as amicus curiae, urged that result. In a later case the United States, 203 U.S. 1, which had suggested that federal law under the Thirteenth Amendment could not forbid private discrimination in making contacts. Jones v. Alfred H. Mayer, Co., 392 U.S. 409 (1968). While the Civil Rights Division under this Administration has not asked the Supreme Court to overrule past precedents, it has urged that remedies such as quotas and busing not be employed. In our view the Supreme Court does not require the imposition of remedies which demonstrably do not work, nor does it require the imposition of remedies which are themselves racially discriminatory.

QUESTIONS SUBMITTED BY SENATOR HOLLINGS

Civil Rights Division

Greenville, Texas Case

Several of my constituents have written to me of their outrage over the arrests of two bright, successful, young black South Carolina natives in a Greenville, Texas court. While I know nothing more about Lennell Geter and Anthony Williams than what is in the letter and news articles they sent to me about this trial, there is enough there to prompt an inquiry into this matter.

According to an article in the Charlotte Observer, coworkers of these two men have written protest letters to Federal authorities protesting their arrests and the conviction and life sentence given to Mr. Geter despite considerable conflicting testimony at his trial. Has the Department reviewed this matter as to a violation of the civil rights of these two men?

If not, for what reasons is the Department not investigating this matter?

Civil Rights Division records indicate that we did receive a letter from Mr. Geter concerning alleged improper arrest and legal proceedings. Upon review of the information provided by him, we concluded that the circumstances described did not appear to violate Federal criminal civil rights statutes. Our response to Mr. Geter informed him of our findings and suggested that he seek advice from his attorney as to any other alternatives which could be pursued. (It appears that it should be presented to the appropriate state court).

We have no record of the receipt of any correspondence concerning Mr. Williams.

If you have any additional information on this matter, please forward it to the Division and we will review it to ascertain if any Federal criminal civil rights statutes have been violated.

QUESTIONS SUBMITTED BY SENATOR BUMPERS

Per Se Rules of Antitrust Liability

Do you agree that it is the responsibility of the Department of Justice to enforce statutory laws as interpreted by the Supreme Court?

The Constitution provides that the President, and by implication subordinate officers of the Executive Branch to whom authority has been properly delegated, "shall take Care that the Laws be faithfully executed." The faithful execution clause imposes the duty, as well as confers the power, on the Executive Branch to enforce the law. This duty may be either ministerial or non-ministerial, depending on the particular circumstances and whether the executive officer charged with the performance of an act has any discretion in its execution. Where a statute directs an executive officer to perform an act, and where there is no discretion committed to the officer, the act is ministerial and the officer constitutionally is bound to perform it. However, where discretion is conferred upon the officer, the duty is non-ministerial. While the faithful execution clause continues to bind the officer to execute the law, the officer may choose the manner in which he will discharge a non-ministerial duty within the bounds of the discretion committed to him.

There are at least three different sources which may confer discretion on an executive officer with respect to any particular duty to act. First, in areas such as foreign relations and defense, the Constitution confers discretion expressly on the President and implicitly on those subordinate executive officers to whom the President has delegated his authority. Second, the statute which defines the duty in question may itself confer upon the responsible executive officer some degree of discretion in the discharge of this duty. Third, the statute may be ambiguous and require construction in order to ascertain the nature of the duty it imposes; the executive officer charged by the statute has discretion, at least in the first instance, to construe it in order to discharge his responsibilities faithfully to execute the laws.

The prosecution of offenses against the United States is not a ministerial duty. Discretion is conferred in varying degrees upon the President and his law enforcement officers by each of the above three sources. The scope of discretion with respect to the enforcement of the antitrust laws as interpreted by the judicial branch is, in many respects, broader than in most other areas of law enforcement because of the "common law" quality of antitrust law. Accordingly, the duty to see that the laws are faithfully executed does not require the Antitrust Division to prosecute every type of conduct susceptible to challenge under existing judicial precedents construing the antitrust laws and to resolve doubtful cases by uniformly pressing for resolution that would lead to a finding of illegality. Rather, an exercise of discretion informed by the competitive effects of business conduct and the potential precedential implications of resultant judicial decisions is the approach mandated by the Constitution and antitrust jurisprudence.

Assistant Attorney General William F. Baxter has developed this view at some length in an article entitled "Separation of Powers, Prosecutorial Discretion, and the 'Common Law' Nature of Antitrust Law," which appears in Volume 60 of the Texas Law Review. [A copy of this article is enclosed.]

With respect to per se rules of antitrust liability, do you agree that they are judicial interpretations of the governing antitrust statutes? By per se rules, I refer, for example, to (a) price fixing by competitors; (b) market division by competitors; and (c) resale price maintenance by a manufacturer.

Although the Sherman Act, read literally, prohibits all agreements in restraint of trade, the Supreme Court has held that it precludes only agreements that are "unreasonably restrictive of competitive conditions." Standard Oil Co. v. United States, 221 U.S. 1, 58 (1911); National Society of Professional Engineers v. United States, 435 U.S. 679, 690 (1978). The courts have established that, as an evidentiary matter, the unreasonableness of a restraint of trade must be shown by either (1) competent evidence that the restraint is demonstrably anticompetitive, e.g., more likely than not to lead to a reduction of output and a consequent increase in price in the individual circumstances of the case (the "rule of reason"), or (2) where available, a conclusive presumption of unreasonable restraint based on the nature or character of the challenged conduct (the "per se" rule). National Society of Professional Engineers, 435 U.S. at 687-92; Continental TV, Inc. v. GTE Sylvania, Inc., 433 U.S. 36, 49-50 (1977); Northern Pacific Ry v. United States, 356 U.S. 1, 5 (1958).

The courts have regarded the "rule of reason" as the general test of the unreasonableness of a restraint; the per se rule is to be employed only in those limited circumstances where courts have had considerable experience with the type of conduct challenged and consistently have found it to have a "pernicious effect on competition and lacking any redeeming virtue". Northern Pacific Ry. v. United States, 356 U.S. 1, 5 (1958) and Broadcast Music, Inc. v. CBS, Inc. 441 U.S. 1, 8 (1979). As a result, courts have fashioned per se rules for only limited categories of restraints, including horizontal price-fixing, United States v. Socony-Vacuum Oil Co., 310 U.S. 150 (1940); horizontal market allocations, United States v. Trenton Potteries Co., 273 U.S. 392 (1927); and vertical price restraints (resale price maintenance), Dr. Miles Medical Co. v. John D. Park & Sons, 220 U.S. 373 (1911).

In recent years, however, the courts have recognized that even the categories of conduct traditionally regarded as per se illegal may be too broad and prohibit practices which may have significant procompetitive effects; where this occurs the courts have cut back on the use of the per se rule. See Continental T.V., Inc. v. GTE Sylvania, Inc., 433 U.S. 36 (1977) and Broadcast Music, Inc. v. CBS, Inc., 441 U.S. 1 (1979).

Do you agree that the Supreme Court in Dr. Miles and subsequent cases established as the law of the land that resale price maintenance is per se illegal?

In Dr. Miles Medical Co. v. John D. Park & Sons, 220 U.S. 373 (1911), the Supreme Court held that vertical price fixing is equivalent in all respects to horizontal price fixing and constitutes an unlawful restraint on alienation. In subsequent cases, the Court has continued to make that assumption. However, it should be noted that Justice Holmes dissented from the Dr. Miles decision on the ground that resale price maintenance had not been shown to be anticompetitive on balance, and, with Justice Brandeis, continued to dissent from decisions presuming resale price maintenance to be unlawful. Subsequent economic research has supported Justice Holmes' suspicion that resale price maintenance is not always equivalent in its effects to horizontal price fixing; indeed, in the majority of cases, resale price maintenance may increase the efficiency of firms and markets and thus enhance consumer welfare. The Supreme Court has recently granted a writ of certiorari that permits it an opportunity to reexamine this per se rule. See Monsanto Co v. Spray-Rite Service Corp. 51 U.S.L.W. 3627 (U.S., Feb. 28, 1982).

Do you agree that Congress spoke out in 1975 by revoking fair trade and, in its legislative history, announcing that price fixing is illegal per se?

The 1975 legislation repealing the Miller-Tydings Act repealed the enabling legislation that permitted the States to enact the so-called "Fair Trade" Acts and provide antitrust immunity to all instances of resale price maintenance (RPM) permitted under those statutes, regardless of their economic effects. This legislation was unambiguous in its intent to place RPM under the scrutiny of the antitrust laws. However, the 1975 legislation did not delineate the standard against which resale price maintenance would be judged to determine, in particular cases, whether the practice constituted an unreasonable restraint of trade in violation of Section 1. Presumably, by enacting this legislation, Congress expressly intended that the antitrust law of RPM be subject to the same judicial evolution of doctrine as are the other types of restraints examined under Section 1. While it is likely that Congress expected RPM to be subject to per se illegal treatment at the time — since all post-alienation vertical restraints were similarly treated under United States v. Arnold, Schwinn & Co., 388 U.S. 365 (1967) — there is no indication whatsoever that Congress intended to codify a per se rule against RPM while leaving all other restraints within the common-law structure.

What discretion does the Department of Justice have to enforce or to refuse to enforce the rule of law that resale price maintenance is per se illegal? That is, can the Department of Justice act as if that is not the rule of law?

The Antitrust Division continues vigorously to identify and prosecute conduct that it believes unreasonably restrains trade in violation of Section 1 of the Sherman Act. The Division recognizes that in certain instances resale price maintenance can have anticompetitive effects which reduce consumer welfare. I understand that Assistant Attorney General Baxter has repeatedly urged the Antitrust Division staff to be vigilant for such cases and to pursue them vigorously. However, recognizing the welfare-increasing potential of many vertical practices, including resale price maintenance, the Division's enforcement actions against vertical restraints have been rare in recent years (under past administrations as well as the present). Indeed, since 1976 the Division has initiated only seven cases involving vertical restraints, five of which pertained to resale price maintenance. Because of the possibility that in certain circumstances resale price maintenance may be procompetitive rather than anticompetitive, I have determined, in my exercise of prosecutorial discretion, that the Division will not bring cases in which we are unable to prove that an anticompetitive effect might result. However, if such cases can be found, the Division will vigorously prosecute the offenders.

The source of the discretion to pursue this course of action is described in the answer to the above question.

If, in your opinion, the per se of resale price maintenance is wrong as a matter of economics, who should change that law -- Congress, the Supreme Court, or the Antitrust Division? Will you submit legislation that reflect your views?

As noted above, the antitrust law of resale price maintenance began in the courts over 70 years ago, with the 1911 Supreme Court decision in the Dr. Miles case. Congress has left the development of the law of resale price maintenance, as with other areas of antitrust law, to the courts, except for its enactment of legislation authorizing the "Fair Trade Laws", which it subsequently repealed. Consequently, in the first instance, the courts should be given the opportunity to refine their prior interpretation as to what kinds of conduct unreasonably restrains trade within the meaning of the antitrust laws as understood in their proper ecomonic context.

Until Congress acts or the Supreme Court issues a new opinion on this subject, will you insist that the Antitrust Division investigate and prosecute resale price maintenance cases?

As I noted in my response to the above question, I understand the Antitrust Division staff repeatedly has been urged to investigate alleged resale price maintenance practices with the view of identifying and vigorously prosecuting those instances in which the practice has the possibility of an anticompetitive effect.

Do you agree that your enforcement of resale price maintenance has diminished substantially? How many cases have you brought charging resale price maintenance? How many cases have you dismissed?

Law enforcement efforts regarding resale price maintenance practices have not changed substantially over the years. With the exception of an intense effort under Assistant Attorney General Sanford Litvack — an effort which resulted in only two prosecutions, one pertaining to resale price maintenance and one pertaining to a tying arrangement — law enforcement activities with respect to vertical practices have never assumed the priority in terms of time and resources as have cartel-type behavior, monopolization, and mergers. Since 1976, the Division has brought only five cases charging unlawful resale price maintenance:

> United States v. Mack Trucks, Civ. No. 81-0102 (E.D. Pa., filed Jan. 12, 1981, dismissed without prejudice July 8, 1982).
>
> United States v. Cuisinarts, Inc., Crim. No. H-80-49 (D. Conn., filed Sept. 17, 1980, nolo contendere plea entered Dec. 19, 1980) (resale price maintenance), and companion

civil case Civ. No. H-80-559, 1980-81 Trade Cas. (CCH) ¶ 63,979 (D. Conn. 1981) (consent decree).

United States v. Under Sea Indus., Inc., No. 79-2579 (D.D.C., filed Sept. 27, 1979), settled by consent decree, 1982-1 Trade Cas. (CCH) ¶ 64,480 (D.D.C. 1981).

United States v. B.F. Goodrich Co., No. C-78-1785 (N.D. Ca., filed Aug. 8, 1978), settled by consent decree, 1981-1 Trade Cas. (CCH) ¶ 63,898 (N.D. Ca. 1981).

United States v. E.I. DuPont de Nemours & Co., No. C-76-556 (N.D. Ohio, filed June 7, 1976)(resale price maintenance), settled by consent decree, 1980-81 Trade Cas. (CCH) ¶ 63,570 (N.D. Ohio 1980).

The Division instituted none of the above cases since Assistant Attorney General William F. Baxter's tenure in office, and the Mack Trucks case was voluntarily dismissed by the Government on Mr. Baxter's instructions.

Standard of Law on Resale Price Maintenance

Do you agree or disagree that a manufacturer should never be able to dictate the resale price of a good?

There are circumstances, outlined by Assistant Attorney General William F. Baxter in his letter of June 18, 1982, to Congressman Robert McClory, in which interbrand competition could be strengthened and consumer welfare increased by enforcement of a marketing scheme that provides for manufacturer control of the resale price of its goods. Essentially, these situations occur where the manufacturer has an interest in encouraging investment by his dealers in promotional or other resale activities that will benefit consumers, and in sheltering dealers' investments in such activities from "free riding" by those dealers who refuse to engage in them. Thus, I disagree that a manufacturer "should never" be able to engage in RPM, where "should" refers to the competitive justification for the practice, rather than its legal justification.

Do you believe that a consumer benefits from price competition for brand-named goods? Is antitrust law aimed at consumer welfare?

The antitrust laws clearly are intended to promote consumer welfare. The debate, however, is over what conduct benefits consumers.

Consumers generally benefit from price competition for most goods, branded or not. Consumers also benefit from improved services surrounding the sale and distribution of goods. As outlined in the letter referred to in the answer to the above question, RPM does not eliminate or reduce competition at the manufacturer's (or other downstream) level unless the practice is used as a facilitating device for a manufacturers' cartel—a practice that the Department of Justice has consistently opposed and one which we would prosecute if it occurred. RPM does allow the manufacturer to specify the retail (or other downstream) price and hence (given the manufacturer's price) specify the retailer's margin. It is the specification of this margin—so as to ensure a level of services that the manufacturer believes will best satisfy his customers and maximize his sales—that is probably the goal of a manufacturer utilizing RPM. Since the margin of its retail dealers, and not the retail price itself, is the goal of RPM, retail price competition is likely to reflect price competition among manufacturers.

Are you familiar with the marketing history of Levi pants? After the Federal Trade Commission prohibited Levi from engaging in resale price maintenance, Levi's sales increased dramatically. As the price of the pants fell due to intrabrand competition, more consumers could purchase the goods. Does the Levi case not demonstrate that intrabrand price competition benefits customers?

I prefer not to comment specifically on the Levi case. However, it is entirely consistent with our understanding of the economics of similar situations that sales of a product would rise immediately after RPM has ended. In the short run, retailers become free to discount, and thus to "consume" the investment in services made during the period in which RPM was in effect. Thus the lower prices will spur sales while that resource is being exhausted. Eventually, however, the lower level of services will decrease the total value of goods and services obtained by the consumer, despite the lower prices. This assumes, of course, that the manufacturer has made the appropriate choice with respect to margins and services under RPM. But even if he has not, as the letter referred to in the answer to Question 1 points out, the market is the proper instrument for punishing enterpreneurial mistakes; the antitrust laws should not be used only to second-guess the decisions of entrepreneurs.

In your opinion, is there any justification whatsoever for a manufacturer setting and enforcing a minimum sales price for its goods?

As the letter referred to in answer to the above question discusses, there are several justifications for manufacturers engaging in RPM, most significantly to encourage investment by their dealers in promotional, advertising, and other activities intended to increase sales, and to protect those investments from "free riding" by dealers who do not engage in such activities.

As I understand the argument of those who would repeal the per se rule, a manufacturer wants to see his product promoted and serviced and also wants to be certain that warranties are provided by the retailer. A discount operation, it is claimed, takes a "free ride" on the efforts of a full price retailer by letting the full price retailer promote the product, at some cost to that retailer. It is alleged that a consumer will visit the full price retailer to obtain information about the product and then walk down the street to buy the good from a discount company. Do you not agree that there are real flaws in that theory? Please comment on these observations.

A discount store may in fact provide as much service and promotion as does a full price store. The discount store has determined that it will sacrifice profit on any particular sale in order to obtain higher volume of sales. The discount operation, in short, follows classic supply and demand theory. It does not shortchange the customer on service; rather, it is willing to operate with a lower profit margin.

As the attached letter referred to in response to the above question makes clear, the decision whether to engage in RPM is a joint decision between the manufacturer and its distributors. If one of the parties disagrees that the practice should be employed, he is, of course, not bound to employ it and can seek other distributional arrangements. Thus, if a manufacturer believed that its discounting retailers would provide what it considered an adequate level of promotional and advertising efforts on behalf of its products while at the same time selling below its mandated retail price, the manufacturer would have no incentive to insist on RPM or to terminate that retailer. However, the incentives for a dealer to engage in such activities is diminished to the extent that other dealers can undercut even its "discount" price and "free ride" on its provision of the promotional services.

On the other hand, if a manfacturer does not agree that a discounting retailer was providing what it deemed to be an adequate level of promotional services, then the manufacturer (unless RPM is being used as a facilitating device for a manufacturers' or a dealers' cartel) should be able to decide whether any given outlet is providing the appropriate level of services and to decide on the appropriate way to induce that level of services, including imposition of RPM. Again, retailers who do not agree with this sales strategy are free to cease distributing this manufacturer's goods and to extend their efforts in distributing the goods of other manufacturers.

A discount store will not remain in operation if it fails to advertise a product, if it fails to accept returns from consumers, if it fails to service the product sold, and if it fails to provide warranty protection. In short, is there not the same economic incentive for a discount store as that for a full price store to provide desired service?

Because of "free rider" problems, the assertions in this question are not necessarily correct. In the long run, if customers are aware that a discount store does not adequately service or warranty a product, then eventually consumers will weigh this information against the practices of other retailers of the product. Unfortunately, however, consumers may not be aware of the retailer's shortcomings when they see advertisements for the sale of products they desire at discounted prices. Thus, in the first place, some retailers can be expected to "get away with" low price offerings to consumers who find themselves without any ability to return a product whose service or warranty claims are not fulfilled. By the same token, however, there is an incentive for retailers to advertise products for sale at low prices — even if they are not prepared to accept returns or to provide warranty protection — due to the fact that increased advertising is intended to lead to increased sales. As discussed more fully in the attached letter referred to in response to the above question, retailers will lose the incentive to invest in the provision of resale services if other retailers will benefit from their expenditures without having to make the same investment.

Does a manufacturer not have less restrictive alternatives than price fixing to ensure that its product is properly sold?

As discussed in the attached letter referred to in the answer to the above question, there is a variety of options a manufacturer may pursue other than RPM in order to seek desired distributional efforts. These include vertical integration (i.e., opening its own retail outlets), resale territorial or customer restrictions, exclusive dealing arrangements and long-term, detailed contracts specifying precisely what is desired (sales staff training, advertising and promotion, inventory requirements, showroom facilities, customer demonstrations, credit, warranty and return policies and the like). However, the drafting, negotiation and day-to-day enforcement of such contracts with a large number of dealers may be prohibitively expensive.

In addition, it may not be true that nonprice restraints are always "less restrictive" than RPM, for they have essentially the same effects on dealer freedom. Moreover, since the above-mentioned distributional restrictions have essentially the same economic effects as price restraints, and yet are analyzed for their legality under the rule of reason, it makes no sense always to bar the one practice while permitting the others. As the attached letter points out, if merely achieving a high resale price is the sole motivation behind RPM, the manufacturer easily could achieve that result by raising its price to the dealer and thereby could capture the revenues commensurate with the higher price. The effect may not always be "less restrictive" than RPM.

Furthermore, since vertical integration means total control by the manufacturer over the distribution of its goods, and is always lawful absent monopolization, it can hardly be said that RPM, which involves only partial control, is "more restrictive" than vertical integration.

The essential point is that the manufacturer should be free to choose among the various options in determining what it believes will produce the optimal level of performance, absent facilitation of collusion at any level of distribution. I should also stress that the market will discipline the mistakes of a manufacturer who chooses to employ RPM in inappropriate circumstances. One form of such discipline is the loss of valuable dealers, who, of course, are free to reject its choice and distribute the goods of the manufacturer's competitors.

(Clerk's Note: Supporting material provided by the Department is on file in the subcommittee office.)

QUESTIONS SUBMITTED BY SENATOR LAXALT

U.S. PAROLE COMMISSION

18 U.S.C. 4203 requires the Parole Commission to have five regional offices. Have any studies been conducted by the Commission on the continued need for this organizational structure? Please summarize the results of the studies for the Committee including the annual savings by consolidation of regional offices.

In 1979, the Commission first recommended to the House of Representatives Subcommittee on Criminal Justice and the Subcommittee on Courts, Civil Liberties, and the Administration of Justice that the requirement for five regions in 18 U.S.C. 4203 be deleted. This recommendation was incorporated in the criminal code reform effort of the Subcommittee on Criminal Justice (HR 6915) and in subsequent versions of this effort (HR 1647 and HR 4711). For such a small agency (161 full time equivalent employees), experience had shown that six offices (five regions plus a central office) spread Commissioners and staff too thinly and made training and policy coordination more difficult, although no formal "study" was undertaken. Therefore, authority was sought to reduce the number of regions. While reduction in the number of regions would provide various operational benefits and allow some savings from consolidation of certain functions (e.g., file room clerks, administrative officers and rental space) there would be additional time and travel costs for hearing examiners, as well as substantial start up costs associated with staff relocation. Therefore, while reductions of the number of regions is recommended on operational grounds, no substantial savings are envisioned.

What impact would a realignment of regional offices have on the number of Parole Commissioners required?

No significant impact. The primary tasks of the Commissioners are case decisionmaking and policymaking. Neither would be significantly affected by consolidation of the regional offices.

A recent GAO report on Federal Parole Practices recommended that the Commission seek legislative changes to streamline the two-staged appeals process. What action has been taken on this recommendation? If this recommendation was enacted into law, what would be the best estimate of the annual savings?

In 1979, the Commission first recommended to the House of Representatives Subcommittee on Criminal Justice and the Subcommittee on Courts, Civil Liberties, and the Administration of Justice that the administrative appeals process be streamlined. This recommendation was incorporated in the criminal code reform effort of the Subcommittee on Criminal Justice (HR 6915) and in subsequent versions of this effort (HR 1647 and FR 4711). In 1982, this Commission's recommendation was incorporated in a separate bill on parole issues introduced by Congressman Matsui (HR 6551). The Commission intends to continue to actively seek this legislation change. If this recommendation is enacted, the estimated annual cost saving would be $80,000.

GAO recently reported that the Parole Commission was not making many parole decisions within the time frames specified in the statutes. What has the Commission done to correct this problem?

The Chairman has stressed this requirement to Commissioners and staff, and has actively monitored the operations of the National Appeals Board (which had been a primary source of the problem). The use of NAB summary dockets has also been increased. Regional Commissioners have been relieved of certain duties by delegation to staff to allow for more timely case decisionmaking. The Commission is presently experimenting with teleconferencing for certain hearings which would, in addition to reducing travel costs, have the potential for facilitating speedier case processing.

Please summarize for the Committee the steps the Commission has taken to streamline its policy and rulemaking process so as to minimize the cost of litigation.

The making of policy and rules by the Commission is basically controlled by the provisions of the Parole Commission and Reorganization Act of 1976. The Act provides for rulemaking to establish a nationwide parole policy based on a system of guidelines. The Commission's rules, policies and procedures are drawn to avoid misinterpretation, and continuously revised when necessary for clarification. These measures act to minimize any grounds for justifiable litigation; however, the bringing of lawsuits by prisoners against the correctional system - just like court challenges to convictions and sentences - cannot be eliminated. Staff have been assigned to review the Commission's rules and precedures on an ongoing basis to identify areas for possible simplification.

A recent GAO report on Federal Parole Practices discussed a need for the Commission to improve its parole release guidelines and to provide training to hearing examiners in the use of the guidelines. What steps have been taken by the Commissioner to correct these problems?

The Commission, despite serious budgetary constraints, has provided forty hours of in-service training for Administrative Hearing Examiners, Hearing Examiners, and Case Analysts within the past nine months. The training has been conducted by the Chief of Case Operations and the Director of Research with assistance of other professional staff. Also, the Commission is experimenting with the use of speakerphones and videotapes to conduct training when changes in the rules and procedures occur. The Commission's 1984 request includes $140,000 which covers training and travel associated with the training of examiners and analysts.

In August 1981, the Commission, based upon a two-year research effort, implemented a revised salient factor score (SFS 81). In January 1983, the Commission implemented a revision of its offense severity index. The revised offense severity index expands and clarifies the definition of a number of offenses to make scoring offense severity more consistent.

GAO recently reported that the Parole Commission did not have effective quality control procedures to detect errors in parole decisions. What steps has the Commission taken to correct this problem?

A pre-hearing review process has been implemented nationwide. Hearing and appeal summary formats have been revised to facilitate quality control. The Deputy Research Director has been assigned to monitor random samples of notices of action on a routine basis. The Deputy Chief of Case Operations has been assigned to review all National Appeals Board modifications for quality control. Random sample reliability/quality control file studies are planned annually (three have been conducted to date).

A recent GAO report on Federal Parole Practices pointed out that contract typists who had no security clearances were regularly typing hearing summaries on witness protection cases. What steps have been taken to correct this problem?

Prior to the publication of the GAO report, the U.S. Parole Commission in mid 1981 put in place a safeguard procedure to handle the typing of hearing summaries on witness protection cases whereby only selected full-time clerical staff with security clearance are assigned to transcribe the hearing summaries.

GAO recently reported that the Parole Commission was making parole decisions without the benefit of complete information from other parts of the Federal criminal justice system. Please summarize for the Committee what action the Commission has taken to correct this problem.

The Commission is continuing to stress to the United States Attorneys, with cooperation of the Department of Justice, the requirement that a Report on Convicted Prisoner by U.S. Attorneys, Form 792, be furnished in all cases. To the limited extent that budget constraints permit, the Commission has participated in training seminars for United States Attorneys' staffs to improve furnishing of information to the Commission and understanding of the Commission's functions. It is expected that the new requirements of the Victim and Witness Protection Act of 1982 will increase compliance with the Department's directive of mandatory use of the form.

The Commission continues to work closely with the Administrative Office of the U.S. Courts to improve the quality and completeness of probation information in the officer's pre-sentence reports. The victim impact statement required by the amendments of Rule 32(c), Federal Rules of Criminal Procedure, contained in the Victim and Witness Protection Act will be of great assistance in providing essential information. Also useful in offense description will be the amendment in Rule 32(c) which requires "a statement of the circumstances of the commission of the offense and circumstances affecting the defendant's behavior." This requirement tracks the language of the Parole Commission and Reorganization Act's requirements concerning the information which the Commission must consider.

The Commission has assigned one staff person full time to work on implementation of the Sentry system to ensure complete information on codefendants; it is expected the system will be fully operational in a year.

By participating in Sentencing Institutes of the U.S. Courts the Commission keeps the courts informed of its need to acquire full information of the actual offense behavior of the prisoner. At these meetings we also stress the desirability of the courts' using the Report of Sentenced Offender by U.S. District Judge, Form AD 235, to furnish the sentencing judge's views of the offense and offender with respect to parole possibilities.

In a recent report on Federal Parole Practices, GAO recommended that the Commission seek legislative changes to a number of the statutes to streamline the parole decisionmaking process. What has the Commission done on this matter? Also, what is the estimated savings if GAO's recommendations are enacted into law?

As pointed out in the Commission's response to the 1982 GAO report, the Commission has sought legislative changes to streamline the parole decisionmaking process since 1979 and is continuing to do so. While the Commission's recommendations have been incorporated in various criminal code revision drafts (HR 6915, HR 1647), these revisions appear enmeshed in the legislative process with the more fundamental issues of sentencing and criminal code reform that have not yet been resolved. A separate bill containing the Commission's recommendations was introduced by Congressman Matsui in 1982 (HR 6551). If all the Commission's recommendations were adopted, an annual saving of at least $150,000 is estimated.

The Commission moved its office to Bethesda in 1982. Please explain the reason for this move and the additional costs for space as a result of the move.

The Commission moved to Chevy Chase in March 1981 at the request of the Justice Department. The Department had a shortage of available space in the vicinity of the Main Justice Department and relocated the Commission and two other DOJ offices to Chevy Chase. Additional costs associated with the move are primarily for "common-use space" which was previously absorbed by all Department of Justice organizations when the Commission was located in D.C. and now paid for entirely by the Parole Commission.

Bankruptcy Matters

This budget terminates the U.S. Trustee Program at the end of the 1983, six months before the termination date set by the Bankruptcy Reform Act of 1978.

Have you discussed with the Judiciary the impact the termination of the U.S. Trustee Program will have on its operations? If not, why not? What effect will there be on the Judiciary's budget?

The Administrative Office for U.S. Courts is aware of the Department's recommendation that the trustee program be transferred to the Judiciary. The impact on the Judiciary's budget is dependent on whether or not the Judiciary is granted statutory authority to replicate the U.S. Trustee program as it currently exists. The level of supervision of bankruptcy case administration differs significantly between the pilot districts on the one hand and the non-pilot districts on the other. In the non-pilot districts, a reduced level of case supervision is being provided by deputy estate administrators located in the clerks' offices. The pilot program was established by Congress in order to determine whether the heightened level of supervision found in the U.S. Trustee districts was desirable and cost effective, and the evaluation of the program currently being completed will address this question.

Should the Congress decide not to continue the U.S. Trustee program within the Judiciary, the Financial Officer for the Administrative Office of the U.S. Courts has indicated that estate administrators would be assigned to the eighteen pilot districts to provide the reduced level of case supervision now found in the non-pilot districts. He indicated that the total costs for 164 estate administrators in all judicial districts in 1984 would be $8,528,000.

If the program is discontinued, what will happen to the automated case management system that has been recently established in several pilot districts? How much money have you expended on this system and can the system be used by the judiciary? If not, has the availability of this equipment been compared with requests for equipment from other units within Justice?

About $325,000 over three fiscal years has been spent for programming and equipment associated with the automated case management system. If the U.S. Trustee program is transferred to the Judiciary, the system design and the data collected to date could also be transferred.

Most of the equipment used in the automated case management system are word-processors with limited files management capabilities. These machines could be used by other components of the Department as word-processors. Since relatively few machines have been purchased for the Trustee program, the impact on the overall Justice budget in this area would be slight.

Do you plan to transfer the employees who have worked on this program to the Judiciary?

No discussions have been held with the Judiciary regarding the transfer of employees; however, the Department would make every effort to place as many employees as possible. Those not placed would be terminated under standard reduction-in-force procedures.

We understand that you contracted for a study of the U.S. Trustee Program's operations. However, you are proposing termination of the program before the study is completed. What is your basis for such a decision? Also, what was the cost of the study that was undertaken?

The initial decision to seek no funding for the U.S. Trustee program in 1984 was based upon the Department's earlier recommendation that Congress transfer the program to the Judiciary. In recognition that Congress has not yet acted on this matter, the Department is currently seeking OMB approval for funding of the program at its current level of operations through the sunset date of March 31, 1984. This will allow ample time for review by Congress of the evaluation study that was conducted. The total cost of this study was $383,979, and the final report is due to the Department by April 30, 1983.

INSTRUCTIONS

Elite type preferred
(12 characters per inch)

SINGLE SPACED

Fees and Expenses of Witnesses

Who monitors the number of fact witnesses called, or is that merely the prosecutor's decision? Do you have a breakdown between U.S. Attorneys and Litigative Divisions as to witnesses called and associated costs?

The Justice Management Division has overall responsibility for oversight of the four activities within the Fees and Expenses of Witnesses appropriation. However, the decision as to the number of fact witnesses called in a particular case is left to each of the litigating organizations. It is a decision best made by the senior litigator representing the Government's interests at trial. Primarily, it is the responsibility of the U.S. Attorney to decide whether or not the proper number of fact witnesses are called by the Department's attorneys.

In FY 1981 and FY 1982, over 99 percent of the obligation of funds for fact witnesses were made by the U.S. Attorneys. In FY 1981, the Department obligated approximately $13.8 million for fact witness fees and expenses (approximately $4.5 million for the statutory $30 per day fee and approximately $9.3 million for travel and subsistence expenses). In FY 1982, the Department obligated approximately $14.3 million for fact witness fees and expenses (approximately $4.4 million for the statutory $30 per day fee and approximately $9.9 million for travel and subsistence expenses).

Community Relations Service

Why can't this entire division be merged into the Civil Rights Division and thus result in savings of administrative overhead?

The Community Relations Service (CRS) can only function effectively as a neutral third-party intervenor between disputing groups. The Civil Rights Division is responsbile for the enforcement of law, and may be party to a conflict into which CRS is drawn to conciliate. Affiliation with the Civil Rights Division would do irreparable harm in the perception of CRS as a neutral party.

CRS, under Title X of the 1964 Civil Rights Act, and through the conciliation and mediation of disputes, functions as an alternative to litigation. This is an important distinction to maintain since conciliation and mediation of disputes, as opposed to litigation, has been a recognized cost benefit to the Department of Justice. On this basis, it allows the Civil Rights Division to refer cases to which that Division is a party to CRS that normally would add to the litigative backlog or require more flexible parameters than litigation allows.

In addition, this division is located outside of the downtown area. What have been the costs associated with being located away from headquarters? How have the employees taken this move?

Apart from the actual expense of the move itself, the costs of being located apart from the Department have been minimal, manifested primarily in occasional delays in the transporation of written communications. Twice-daily messenger trips have significantly reduced the impact of this problem. It might be pointed out that this problem existed when CRS was located downtown, but in a separate building from the Department.

As far as the employees are concerned, many were initially distressed at having to relocate to Chevy Chase. As time progressed, however, most seem to have adjusted to the change and are quite happy with the new surroundings. The building and the surrounding area are very attractive and conducive to productive output.

U.S. ATTORNEYS AND MARSHALS

STATEMENT OF WILLIAM P. TYSON, DIRECTOR, U.S. ATTORNEYS

ACCOMPANIED BY:

FRANCIS X. MALLGRAVE, ASSISTANT DIRECTOR
EDWARD A. MOYER, FINANCIAL MANAGER
KEVIN D. ROONEY, ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION
CHARLES R. NEILL, CONTROLLER
JOHN R. SHAFFER, DIRECTOR, BUDGET STAFF

BUDGET REQUEST

Senator LAXALT. The subcommittee will now turn to the estimates of the U.S. attorneys. Appearing on behalf of this request is Mr. William Tyson, Director of the Executive Office for U.S. Attorneys.

Mr. Director, the committee is pleased to hear your comments and observations.

Mr. TYSON. Thank you, Senator. It is a pleasure to appear before the committee again on behalf of the U.S. attorneys. Also I am glad to present the total numbers of the request for the U.S. attorneys and marshals and trustees and then to focus my comments upon the U.S. attorneys' part of the request.

Senator LAXALT. Very well.

PREPARED STATEMENT

Mr. TYSON. I submitted a written statement. I would, with the chairman's permission, paraphrase my statement and submit it for the record.

Senator LAXALT. That would be just fine.

[The statement follows:]

PREPARED STATEMENT OF WILLIAM P. TYSON, DIRECTOR, EXECUTIVE OFFICE FOR U.S. ATTORNEYS

Mr. Chairman and Members of the Subcommittee: I am pleased to have the opportunity to appear before you on behalf of the 1984 request for the U.S. Attorneys, U.S. Trustees and the U.S. Marshals. The total request is for $362,707,000 and 6,665 positions, a net increase of $20,116,000. The request for the U.S. Attorneys is $248,273,000 and 4,597 positions; for the U.S. Trustees, the Administration is requesting termination of the program; and for the U.S. Marshals Service, $114,434,000 and 2,068 positions.

My role today will be to present the portion of the request which pertains to the U.S. Attorneys. I will be followed by Mr. William E. Hall, Director, United States Marshals Service, who will appear on behalf of the Marshals Service and the Support of U.S. Prisoners appropriation.

The U.S. Attorneys' request provides for the prosecution of federal criminal offenses and the conduct of the government's civil litigation in the 94 federal judicial districts. For 1984, an appropriation of $248,273,000 and 4,597 positions has been requested for the U.S. Attorneys, an increase of $20,821,000 and 37 positions above the appropriation anticipated in 1983. The increase consists mainly of uncontrollable adjustments which net to an additional $17,333,000. A transfer of positions from the Justice Management Division accounts for part of the position increase. The remainder is composed of a program increase for criminal litigation in the amount of $2.3 million and a program increase for civil litigation of 32 positions and $1,188,000.

The transfer of five positions from the Justice Management Division will enable the Executive Office to assume full responsibility for the management of the U.S. Attorneys' caseload information system. Previously, the Justice Management Division performed certain functions relative to the Docket and Reporting System on a reimbursable basis. The transfer of positions and the assumption of these responsibilities will give the Executive Office more direct control over the caseload system and will facilitate the transition from the Docket and Reporting System to the Prosecutor's Management Information Systems (PROMIS).

A program increase of $2.3 million for criminal litigation is requested to provide funds for certain litigation expenses which are now inadequately funded.

RIGHT TO FINANCIAL PRIVACY ACT COSTS

In 1978, the Congress enacted the Right to Financial Privacy Act requiring, for the first time, reimbursement to financial institutions for costs they incur in the course of complying with grand jury subpoenas. In 1980, such reimbursements amounted to $472,941, and in 1981, the annual costs to the U.S. Attorneys were $1,151,787. No funds have ever been budgeted for this purpose, and $1.2 million is requested to provide for these expenditures which are required by law.

GRAND JURY REPORTING COSTS

In 1979, Rule 6(e)(1) of the Federal Rules of Criminal Procedure was amended to require the recording of all grand jury proceedings. In the three years prior to 1979, grand jury reporting costs averaged $1.6 million. In the three years following 1979, these costs averaged $3 million per year. Of the $1.4 million increase, approximately $300,000 has been funded through adjustments to the base for inflationary price increases leaving an additional $1.1 million requirement due to the rule change.

INCREASE FOR CIVIL LITIGATION

For civil litigation an increase of 11 attorney positions, 3 paralegals, and 18 clerical positions is requested in order to enhance the resources available to conduct civil litigation. According to the Annual Report of the Director of the Administrative Office of U.S. Courts, the number of civil cases filed, in which the United States is involved, increased by 22.5 percent in 1982 over the number of cases filed in the previous year. U.S. defendant cases increased by 11 percent while U.S. plaintiff cases increased by 30 percent. Compared with just five years ago, the number of civil cases filed involving the government has risen by over 88 percent. The additional positions are needed to address the rising caseload.

I will be pleased to respond, Mr. Chairman, at this time to any questions from you or other members of the Subcommittee.

APPROPRIATION REQUEST

Mr. Tyson. The total request for this appropriation for U.S. attorneys, marshals and trustees is for $362,707,000 and 6,665 positions. This is a net increase of $20,116,000.

For U.S. attorneys, the request is for $248,273,000 and 4,597 positions. For the U.S. trustees, we are committed to the termination of this program in the coming fiscal year. For U.S. marshals, the request is $114,434,000 and 2,068 positions. I will now present the U.S. attorneys portion of the request.

U.S. ATTORNEYS BUDGET REQUEST

The U.S. attorneys portion of the request is for the prosecution of violators of Federal and criminal law, for defending the United States against civil lawsuits, and for bringing suit on behalf of the Government to collect debts, and recover other moneys and assets due the United States; to provide legal education for all of the attorneys in the Department of Justice, as well as to provide legal education for attorneys in the other executive departments of the Government through the Legal Education Institute; to provide training for nonlawyer personnel in the U.S. attorneys offices and in some of the agencies; to provide necessary administrative, logistical, management and legal services support.

Our request represents an increase of $20,821,000 and 37 positions over the anticipated 1983 appropriation.

Senator **Laxalt**. That struck me, considering everything we are doing here, the accelerated war on organized crime and with a new crime package, that this would all translate into rather substantial increased burdens for those U.S. attorneys out there. In your assumptions here, have you adopted a conservative view for the success of our legislation or what? [Laughter.]

Mr. **Tyson**. Not exactly.

Senator **Laxalt**. You may be right. [Laughter.]

Mr. **Tyson**. The trends would indicate that people are going to continue to litigate at a high rate. These positions in fact are for the civil side of the docket. On the criminal side of the docket, we received additional resources in a 1982 supplemental. In addition the drug task forces provide for 200 additional prosecutors.

Senator **Laxalt**. Those aren't technically budgeted here. Those will come in the organized crime drug enforcement budget.

Mr. **Rooney**. Right.

Senator **Laxalt**. So this is where we are taking care of the civil litigative positions.

Mr. **Rooney**. Right.

Mr. **Tyson**. The money increase in our request is mainly for uncontrollable adjustments in the amount of $17,333,000. The program increases are for criminal litigation, $2.3 million and for civil litigation, $1,188,000. Personnel increases are broken out as follows. Five positions are being transferred from the Justice Management Division to consolidate with our Office of Management Information Systems and Support. These people have been devoted to a U.S. attorney's docket reporting function for which we have reimbursed the Justice Management Division. They now are being consolidated with our staff so that that function will be in one place.

The 32 new positions are for civil litigation. That is the side of the docket right now that is going up at a very rapid rate. There are 11 attorneys in this group, three paralegals——

CIVIL LITIGATION INCREASES

Senator **Laxalt**. What accounts for this dramatic increase on the civil side?

Mr. **Tyson**. What accounts for it?

Senator **Laxalt**. Yes.

Mr. **Tyson**. I think what accounts for it is simply there are more people litigating.

Senator **Laxalt**. It just reflects what is going on generally.

Mr. **Tyson**. Yes. There have been a few things, like asbestos cases and swine flu cases, more claims for medical malpractice, things of that sort. But the rate has been going up for about 10 years. It has gone up 88 percent in just the past 5 years. And in

1982, the civil filings in which the United States was a party went up 22.5 percent over the previous year.

The money increase request breaks down as follows: First there is the Right to Financial Privacy Act passed by Congress in 1978. The act requires that financial institutions be reimbursed for the expenses that they incur in responding to grand jury subpenas for bank records. In 1980, our cost was $472,941. In 1981, our cost went up to $1,151,787. Essentially we have been absorbing these costs, but the costs are now outrunning our ability to absorb them. Now we are asking for $1.2 million to cover these expenditures in 1984.

FINANCIAL PRIVACY ACT AND FEDERAL RULES OF CRIMINAL PROCEDURE

Senator LAXALT. If you have 100 percent increase, which you did between 1980 and 1981, are you leveling out? Is that what you are telling me? So you are going to need $1.2 million now?

Mr. MOYER. Yes.

Senator LAXALT. You are leveling out pretty well?

Mr. MOYER. Yes.

Mr. TYSON. The second factor is the change in the Federal Rules of Criminal Procedure in 1979 requiring that all grand jury proceedings be recorded verbatim. In the 3 years prior to the change in the rule, we were averaging $1.6 million annually. In the 3 years following the change in the rule, we are averaging $3 million annually. We have taken care of some of that increase by some of the adjustments in the uncontrollables, inflationary cost and so forth. But we need $1.1 million for fiscal year 1984 to cover the increased costs that we anticipate that are not just the inflationary costs reflected in the uncontrollables.

Mr. Chairman, that is all of my prepared statement. I am prepared to answer any questions.

STRIKE FORCES JURISDICTIONAL CONFLICT

Senator LAXALT. Thank you. I have just a question or two.

How, in these various States is jurisdiction being presently worked out as between the U.S. attorneys and the strike force people?

Mr. TYSON. There is a memorandum of understanding that has been in existence for a number of years. I think it works, in general, very well. There is always a conflict, mostly personality conflicts, human kinds of problems in working things out. But the basic memorandum of understanding has been in effect for a number of years now. I believe it is working well.

Senator LAXALT. That is our impression, too.

Mr. TYSON. Yes.

Senator LAXALT. According to the terms of the memorandum, if there is a conflict in policy with respect to the U.S. attorney and the chief of the strike force attorney? How is that resolved?

Mr. TYSON. It could come through both the channels. The U.S. attorney could bring it to the attention of the Associate Attorney General, and what normally happens is that it comes up through the Criminal Division chain of command. If the Assistant Attorney General for the Criminal Division does not resolve it to the satisfaction of the U.S. attorney, then he can appeal it to the associate.

EXPERT WITNESSES

Senator **Laxalt**. Then it goes to the man. All right.

We noticed in looking over your numbers that you had a $1 million increase for expert witnesses. What is the process by which you determine when you call an expert in and whether or not we are getting value received out of this?

Mr. **Tyson**. Of course, this is basically a lawyer's judgment. There are some requirements for experts. But when you get into certain kinds of cases, such as these medical malpractice cases and some of the aircraft accidents and other cases, it is necessary to protect the interest of the United States to bring in experts.

Senator **Laxalt**. In these major litigations, is that kind of evaluation made by the attorney on the ground handling the case or is it done jointly here? What is the process?

Mr. **Tyson**. The attorney handling the case makes the preliminary judgment on his assessment of the case and makes a request for approval of an expert. In the case of the U.S. attorneys, it has to come through the U.S. attorney. He has to personally approve it.

Senator **Laxalt**. He makes a request and it is looked at here, so that if you get a U.S. attorney out there who is going expert happy, the check would be here then? Is that how it works?

Mr. **Rooney**. Yes. It would go through Mr. Tyson's office. The responsibility for that appropriation for the expert witnesses is mine. If indeed there is a U.S. attorney who is over-utilizing his capability in that regard, I am sure it would be checked first at Mr. Tyson's level.

Mr. **Tyson**. It is difficult if not impossible to really set up an objective standard by which you evaluate a lawyer's judgment that he needs an expert in a particular case.

Senator **Laxalt**. We appreciate that. I guess the only thing we have had here in oversight is to see ourselves that within your process there is a mechanism for review. There apparently is.

Mr. **Tyson**. Yes.

LAW ENFORCEMENT COORDINATING COMMITTEES

Senator **Laxalt**. One last area here. There are alternatives to prosecution we talk about a lot. To what extent are the U.S. attorneys and their law enforcement coordinating committees working with State, and local, as well as Federal agencies in identifying and using alternatives to Federal prosecution? Are we getting into that as much as we might?

Mr. **Tyson**. We are getting into it more in the past 2 years than we have ever gotten into it. I have been with the Department for 12 years now. The emphasis that has been placed in the last 2 years in setting up a long-term coordinating committee in each and every district is being pursued. We now have committees in, I believe, 86 districts. We still have two or three districts where we don't have our new U.S. attorneys. As we get that completed, we will have a committee in each district.

One of the central themes of the committees is for the U.S. attorneys, acting as the Attorneys General, to represent and coordinate, to sit down with the State and local counterparts and to work out arrangements as to which cases we try, which cases they try, and which cases we work on jointly. This is now being done up front instead of at the end of the pipeline, when, in the past, our State and local colleagues have accused us of dumping our more undesirable cases on them. Each district is now required to have a law enforcement plan. This is one of the factors that has to be addressed in the plan.

Senator LAXALT. So what you are telling me is that you are working at it. It appears to be working reasonably well.

Mr. TYSON. Yes, sir.

SALARIES OF U.S. ATTORNEYS

Senator LAXALT. Having come out of this background generally, I just wonder about the dollars. Are you paying these people enough to attract the kind of people we should have in these important positions?

Mr. TYSON. The Assistant U.S. attorneys?

Senator LAXALT. U.S. attorneys. What is your level now?

Mr. TYSON. Our level is executive level 4 for the U.S. attorneys in the four largest districts, which is, I guess, $67,200.

Senator LAXALT. The beginning law student starts at a metropolitan firm at 45. But I guess you can't base it on those terms because we all make value judgments.

Mr. TYSON. That is right. The U.S. attorneys are making much less money than they would in private practice.

Senator LAXALT. What is the compensation of the U.S. attorneys' assistants now? Are they younger people or people that are older or a mix or what?

Mr. TYSON. As far as the U.S. attorneys are concerned, this administration put a lot of emphasis initially on hiring as many people as possible as U.S. attorneys—working, of course, with the Senators—who had prior prosecutorial background and experience. I think 60 percent of our U.S. attorneys have had previous prosecutorial experience. We have several former U.S. attorneys who are back for the second time and people who served as assistant U.S. attorneys.

Generally speaking, I think this is because the quality of the work has gone up. What we are doing now is more attractive than what we were doing 10 or 12 years ago when we were handling mostly stolen car cases, bank robberies, and things of that sort.

Another factor is the relative salary has gone up, generally speaking, around the country I think. It is not true a hundred percent across the country, but in some of the more rural areas and smaller communities we are up.

Senator LAXALT. So in the total picture inadequate salaries are not the problem, as you see it.

Mr. TYSON. I don't really think it is even in the districts where we are not competitive. In New York City, for example, we have a rule we want to hire people who have had 2 or 3 years of experience. We have people who have been to top-flight and blue ribbon law schools who take a substantial pay cut and have come with us for 3 years, get more experience than they would in 10 years in private practice, and then go back into private practice. Nowhere in the country do we have any trouble attracting the kind of people that we want.

Senator **Laxalt**. Those were my general impressions, too. I am glad you confirmed them.

SUBMITTED QUESTIONS

I think that is all we have for the time being. We may have some additional questions we will submit to you later. Thank you very kindly for coming in.

Mr. **Tyson**. Thank you, Mr. Chairman.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR LAXALT

U.S. ATTORNEYS

Regarding legal training for assistant U.S. Attorneys—reference is made that training is also made available to client agency attorneys. How many attorneys from client agencies have been included in training sessions? What agencies were represented?

In 1982, a total of 2,198 attorneys participated in training courses offered by the Legal Education Institute of the Office of Legal Education. The participants came from every Executive Branch agency and 47 of 53 independent government establishments and corporations.

Regarding management and administration—reference is made to field activities section evaluations of U.S. Attorneys' Offices:

(a) How many were conducted during fiscal year 1982 and how many are scheduled during discal year 1983?

A total of 33 field evaluations were conducted in 1982. Only 17 evaluations have been scheduled so far in 1983; however, the rate of evaluations is expected to increase in the remainder of the current year so that 60 are expected to be completed before the end of the year.

(b) Based on those conducted, what are the most common problems and issues identified?

The most common problems identified in the field evaluations have to do with inadequate facilities or ineffective case management techniques.

(c) What corrective actions are being taken?

Problems with facilities are referred to the cognizant unit of the Executive Office and an appropriate solution is developed with the U.S. Attorney and any external agencies having authority to ease the problems such as the General Services Administration. And difficulties with caseload management techniques will be addressed in the implementation of the PROMIS caseload management system which will be installed in each U.S. Attorney office within the next three years.

LAW ENFORCEMENT COORDINATING COMMITTEES

How does the Department of Justice plan to monitor and evaluate the success, as well as failures, of Law Enforcement Coordinating Committees and district law enforcement plans after they are established by each U.S. Attorneys' office?

A full time, professional position has been established in the Executive Office for U.S. Attorneys to monitor the activities of the Law Enforcement Coordinating Committees (LECCs). The responsibilities of this position include reviewing all law enforcement plans and the minutes of all LECC meetings following with U.S. Attorneys who have not initiated appropriate actions and monitoring the progress of the individual law enforcement plans as they are reviewed by the Criminal Division, the cognizant federal law enforcement agencies and the Associate Attorney General prior to final approval by the Attorney General. An effort is planned to identify the most effective strategies in the law enforcement plans now in operation and to communicate to other LECCs the methods which have proven most successful. Site visits are also planned for the direct observation of the law enforcement plans in operation.

IMMIGRATION AND NATURALIZATION SERVICE

STATEMENT OF ALAN C. NELSON, COMMISSIONER, IMMIGRATION AND NATURALIZATION SERVICE

ACCOMPANIED BY:

MALCOLM E. ARNOLD, COMPTROLLER

THOMAS N. PERRELLI, DIRECTOR, PROGRAM PLANNING AND BUDGET STAFF

ROSS C. CORY, CHIEF, BUDGET FORMULATION GROUP

KEVIN D. ROONEY, ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION

CHARLES R. NEILL, CONTROLLER

JOHN R. SHAFFER, DIRECTOR, BUDGET STAFF

OPENING STATEMENT

Senator LAXALT. The next request before the committee is that of the Immigration and Naturalization Service. Appearing on behalf of the bureau is its Commissioner, Mr. Alan C. Nelson.

Welcome, Commissioner Nelson, to the hearing. Glad to have you here.

Mr. NELSON. Thank you, Mr. Chairman.

Senator LAXALT. We would be pleased to hear your report. You can either read your statement generally or summarize it, as you please, whatever you are most comfortable with.

PREPARED STATEMENT

Mr. NELSON. Mr. Chairman, I would like to submit for the record the full statement and I would just like to make a few summary comments from it.

[The statement follows:]

PREPARED STATEMENT OF ALAN C. NELSON

COMMISSIONER

IMMIGRATION AND NATURALIZATION SERVICE

Chairman Laxalt and members of the Subcommitttee:

This has been a watershed year for INS. Last year, I established some future goals and priorities. I am pleased to report that we have made progress on many of our improvements. We are now ready to implement this year's budget request and meet the challenges of any new legislation. I am pleased to have the opportunity to appear before you in support of the 1984 budget request for $539,261,000 and 10,501 positions.

The 1984 budget request for the Service reflects current services plus a program increase of $25.7 million and 22 permanent positions. The major themes included in this request are the implementation of automation, the establishment of the National Records Center and the Eastern Region Telephone Center. Also included are the inspections requirements associated with the new port of entry at Otay Mesa, California. The specific increases by program are:

- Data and Communications Systems - $16.5 million and 22 permanent positions increase for data systems and $3.7 million increase for communications systems.
- Information and Records Management - $10.1 million increase for National Records Processing Center and $719,000 increase for Eastern Regional Telephone Services Center.
- Inspections - $5.2 million increase to meet 1931 Act overtime expenditures and $640,000 increase for the new land border at Otay Mesa.

Three goals have guided our strategy and priorities: legislative reform, immigration policy leadership, and effective management. These goals have provided the basis for developing the specific details for implementation and administration of individual INS programs.

Of these goals, none is more important or urgent than legislative reform. There is a general consensus that reform of our immigration laws is essential to the future effectiveness of INS. Congressman Mazzoli and Senator Simpson have recently reintroduced their legislative proposals and I was pleased to testify on behalf of both of these proposals within this month. The passage of reform legislation which addresses the issues of employer sanctions, increased enforcement resources, reform of exclusion and asylum procedures, streamlining of the current H-2 program, and legal permanent residence for aliens is critically important to our ability to begin the process of regaining control of our borders and establishing an orderly immigration process.

The 1984 resource request does not include funding estimates for the implementation of new legislation. We will continue to work closely with the Department of Justice and OMB in developing cost estimates for any such reforms.

To provide leadership for immigration policy, great emphasis has been placed on interagency cooperation and coordination. This has led to the consideration and mitigation of mutual concerns and problems affecting INS and the Departments of State, Labor, Health and Human Services, Treasury and Agriculture. Such cooperation is essential if an effective national immigration policy is to be implemented.

Over the last year, we have added a number of new individuals to key management positions at the INS. These new members of the top management of the Service provide fresh insight into many of the challenges facing our agency.

During the last fiscal year, I proposed a series of management improvements affecting a broad range of activities in our organization. Some of these management and organizational changes include:

--establishing a management-by-objectives system with Service managers being evaluated on specific goals and priorities assigned to them;

--streamlining the regional office structure and clarifying the role of the regions; and

--consolidating compatible program functions to provide more effective agency management.

--implementing a decision making system to involve all members of top manaement in a more effective process of considering changes in INS policy.

We have also emphasized targeted enforcement, streamlined adjudications processing to reverse mounting backlogs, and improved our information collection and storage and the overall management of resources.

At this time I would like to describe some of our significant achievements.

ENFORCEMENT

We have begun to target our enforcement resources for greatest effectiveness. During 1982, we shifted some investigators from casework, so that 50 percent of our investigative resources could be devoted to Area Control. This change in emphasis resulted in an 11.8 percent increase in interior apprehensions, and the proportion of aliens apprehended who were employed jumped from 49 to 57 percent.

Project Jobs was another example of targetted use of enforcement resources. This five-day nationwide interior enforcement effort in nine cities resulted in the apprehension of over 5,000 illegal aliens earning an average wage of $4.81 per hour. This operation demonstrated a firm commitment by INS to its mission of interior enforcement which in recent years had been adversely affected by manpower restrictions caused by events such as the Iranian student registration program, the Cuban boatlift, and the 1980 Census. Project Jobs was designed to remove illegal aliens from jobs paying above minimum wage that would be attractive to unemployed U.S. workers. It was also accompanied by an effort to advise employment agencies of vacated positions. Most locations reported a strong demand for the vacated positions. In Los Angeles, 1,000 persons showed up the next day for 82 positions at a plumbing factory. Overall, the results, as expected, exhibited a combination of illegal alien rehires, new illegal hires, and U.S. citizen hiring. This operation demonstrated that illegal aliens are holding attractive paying jobs and reemphasized a need for employer sanctions.

Border Patrol apprehension figures are up dramatically all along the Southern Border--30% above last year. Each month since August has produced the highest apprehensions for that month since 1953. Entry rates are expected to remain high until improvements in the Mexican economy are realized.

Using money made available in the 1982 Budget Amendment, the Border Patrol has sent task forces into areas where higher than normal illegal alien activity has been observed or is expected. During the last several months, details have been conducted in Laredo, Del Rio, and Chula Vista sectors. Agents have enhanced linewatch, traffic check, and city patrol enforcement. Illegal activity tends to drop off in these areas during and after such operations, indicating that alien entry patterns have been disrupted. Intelligence indicates that smuggling efforts are also interrupted and the disruption continues for several weeks after the detailed officers have left the area.

Increased use of technology is also improving our effectiveness. Helicopter operations have been expanded at Chula Vista and El Paso and the addition of helicopters to the Yuma, Tucson and Del Rio sectors has aided our night surveillance immeasurably.

The Chula Vista Sector has also put into operation six new, state-of-the art, infrared nightscopes. These portable, long-range surveillance devices can detect persons at night with no light present. They rely upon the heat generated by a live body, and are capable of spotting a person in rain, fog and darkness at a distance up to three miles. Mounted on pickup trucks, they are highly mobile, and capable of being put into operation immediately upon arrival at a new site.

Our anti-smuggling efforts were focused on major violators. From 1981 to 1982, the number of low-level smugglers cases presented for prosecution decreased over 30 percent, while prosecution of major smugglers rose by 14 percent. This past year over 82 percent of all prosecuted smuggling-relate cases resulted in convictions. Thirty-four percent were for felonies, up from 12 percent four years ago. Almost half of these were for conspiracy. In July, we announced the breaking of the Villasana Organization (named for its hotel headquarters in Juarez, Mexico), which had earned an estimated $24 million over seven years by smuggling more than 3,000 aliens annually. Thirty-eight persons were indicted and the Mexican national who directed the operation from Juarez was sentenced to fifteen years. The primary principal smugglers from the New Mexico dispatch point were sentenced to ten and five years.

Taking advantage of the law that enables the Service to confiscate vehicles used to smuggle illegal aliens into the country, INS seized more than 5,000 cars, trucks, motor homes, boats, and other conveyances in 1982. This was double the number seized in 1981. Seizure of these vehicles, worth $12.6 million, resulted from greater emphasis on large smuggling organizations, which often meant that several vehicles were seized at one time. Seizure of the vehicles was a major part of the INS effort to curtail the lucrative alien smuggling racket.

Two memoranda of understanding, with the Social Security Administration and with the Department of Labor, represent our efforts to improve enforcement through interagency cooperation. We have secured from the Social Security Administration the records of 326,280 aliens who had earnings reported on their non-work Social Security numbers in the past nine years. This data will be processed to produce data concentrations of illegal aliens at places of employment. With the Department of Labor, we have agreed to be responsive to inquiries from state employment service offices as to the validity of unemployment claims made by aliens. As you know illegal aliens are not eligible for unemployment insurance. In a one month a test in Illinois last spring, that state estimated that these checks would save them the equivalent of $56 million per year in payments to illegal aliens.

In March 1982, INS requested that the Evaluation Staff of the Justice Management Division conduct a study to assess the organization and operation of the Intelligence program. That study is now complete, and we are in the process of initiating the changes recommended by the Department of Justice.

Implementation of these recommendations, including a reorganization of the Intelligence function and development of a comprehensive long-range program plan, will enable INS to provide the information and intelligence necessary to support INS operational staffs and top management.

In the Detention and Deportation program, the pilot automated Deportable Alien Control System (DACS) has been successfully implemented in San Diego and in the El Centro Service Processing Center. Basically, this interim system automates the docket in our docket control offices, and tracks book-ins and book-outs at Service Processing Centers. The system generates routine and ad hoc reports, and will improve the accuracy and currency of the docket and detention booking data.

INS and the Bureau of Prisons have worked closely together over the last several months preparing for the site acquisition and construction of a new 1,000 bed facility. Oakdale, Louisiana, has been selected by the Department of Justice as the location for the new detention center and INS and BOP officials recently traveled to Oakdale to evaluate potential sites.

Since the new facility will not be operational until 1985, INS is currently considering a number of options for expanded detention capabilities.

An agreement has been negotiated with the U.S. Coast Guard in Boston which will provide INS space in their existing facility. This space will be used to house INS detainees. INS is proceeding with major renovations at the Krome North Service Processing Center. These renovations include construction of kitchen facilities, expanded water and sewage systems and other general improvements. INS has also recently visited the BOP Florence Detention Center with a view towards acquiring the facility. This acquisition would enable INS to meet a critical and growing need for detention space in the Southwest.

SERVICE TO THE PUBLIC

A major emphasis by INS to improve our service to the public and eliminate backlogs has led to a number of achievements.

- The "Ask Immigration" tape library system which provides callers with information on immigration and citizenship matters has been very successful and its usage is being expanded. Placed in seven offices last year, an eighth district office, San Diego, has begun this service and Chicago and Houston will receive it in March and April. This has resulted in a substantial increase in a number of people served by telephone. At the same time, there has been a decrease in the number of people who now walk into INS waiting rooms seeking general immigration and naturalization information.
- Two new regional remote processing centers have been opened in Dallas, Texas; and Lincoln, Nebraska. This expansion was recommended by the efficiency obtained by a pilot project in adjudicating any type of application or petition not requiring an interview. With the centers located away from the parent office, interruptions such as answering telephones or handling other assignments are eliminated, and officers are able to devote full time completing the adjudication.
- INS has adopted a uniform six month admission policy for admissible B-2 visitors. This will greatly reduce the extension of stay workload and permits INS to concentrate its limited resources on applications and petitions for more significant immigration benefits. INS merged

Adjudications and Naturalization into one division effective January 1, 1983. Responsibility for the legal aspects of naturalization work has been transferred to the General Counsel, and a single non-attorney officer position has been created to do both adjudications and naturalization work. This will give the INS more flexibility in deploying its human resources and enable us to accomplish naturalization work using lower-graded employees. We have already taken advantage of this opportunity by shifting Adjudications and Naturalization positions among regions to better align work force with workload.

INS has just placed in operation a new automated Nonimmigrant Information System (NIIS) which will, for the first time, enable the Service to keep an accurate accounting of aliens entering and leaving the United States. The procedure entails the use of a newly developed arrival/departure record (revised Form I-94), which every alien entering the U.S. must complete.

All ports of entry have been converted to the new system, using both regular mail and special courier service to deliver documents to the processing centers in New York, Los Angeles, and Miami as quickly as possible after receipt. Since its January 1, 1983 start-up, NIIS has received over 2 million documents. It is anticipated that by May 1, 1983, document processing will reach an acceptable rate of thirty days for routine records and ten days for special interest groups. INS field offices have access to this information through computer terminals.

In keeping with the Administration's high priority placed on ensuring that services provided by the Federal government are covered by appropriate user charges, the Service has revised its fee structure and provided a means for appealing parties to obtain transcripts of hearings commercially. The revised fees will more nearly reflect the current recovery cost of providing benefits and services and will be more equitable to both the taxpayers and the recipients. Breaking the fees into five categories has made it easier to explain, remember, and process the fees. The new fee schedule for INS was proposed and published in the Federal Register. The final rule will be published shortly. INS fee collections should exceed $50 million during 1984 as compared to $21.4 million in 1982. All these fees go into the General Fund.

LEGAL IMPROVEMENTS

Significant improvements have been made in our legal program over the past year. First, the INS is completing a process begun several years ago, the Naturalization program has been merged with the Adjudications Division, and the non-legal aspects of naturalization will be handled by non-attorney examiners. This will allow INS attorneys to concentrate on the formidable legal challenges facing the agency, especially in the areas of providing advice and support to operating personnel in the field and assisting in the presentation of Federal Court litigation.

The Office of Immigration Litigation has been established in the Civil Division to improve the government's ability to respond to civil immigration litigation in Federal Courts on a nationwide basis. The creation of this unit was the outgrowth of a task force in which I participated along with the Associate Attorney General, the General Counsel, and the Assistant Attorney General for the Civil Division. The success of the task force approach led to the creation of this new unit. INS has contributed four attorneys to this effort on an annual detail basis, in addition to the normal litigation support provided by INS.

Finally, effective January 9, 1983, the immigration judges were transferred from the INS to a new organization known as the Executive Office for Immigration Review. The new organization also contains the Board of Immigration Appeals, and is headed by David Milhollan, who also serves as the Chairman of the Board. A new Chief Immigration Judge has been appointed, and we have been informed that his office is hard at work drafting a proposed revision of the rules of procedure for immigration courts. We expect to see a substantial improvement in the immigration hearing process as a result of these changes.

In summary, I give you my commitment to continue to provide strong leadership and aggressive implementation of the goals we have established for INS, and I look forward to working closely with this committee in furthering INS accomplishments. I thank you for your interest and attention and will answer any questions you may have at this time.

INS BUDGET REQUEST

Mr. **Nelson**. I am pleased to appear before you in support of the 1984 INS budget request for $539,261,000 and 10,501 positions. This budget request for the Immigration Service reflects our current level of services, plus a net program increase of $25.7 million. The main thrust of this, Mr. Chairman, is the implementation of automation that has been underway for a period of time. The Attorney General, of course, spoke to that generally.

INCREASED AUTOMATION

It also includes establishment of the National Records Center that will more effectively deal with the millions of records we have, and also some telephone processing centers. We think this increased automation is one of the key areas where the Immigration Service has had a tremendous need and that this represents a significant impact in that regard.

Certainly under this administration the major efforts in moving us forward is to focus on three basic goals: legislative reform, policy leadership, and effective management. Certainly as you well know, Mr. Chairman, the need for legislative reform currently before the Congress is critically important. We certainly hope that moves forward to prompt passage.

The 1984 resource request from us does not include funding estimates for implementation of such new legislation.

SUPPLEMENTAL FUNDING FOR SIMPSON/MAZZOLI LEGISLATION

Senator **Laxalt**. We assume in looking at the numbers here, if Simpson-Mazzoli is passed in essentially the form we are fooling with it, obviously it will result in some substantial increased costs in your budget. So your submission here is on the assumption of continuing the status quo. I guess if it goes, as we hope that it will, then you will be back in for an amendment for 1984, or supplemental.

Mr. **Nelson**. That is correct, Mr. Chairman. The Attorney General made it very clear we will either come in with a supplemental for the 1983 budget or an amendment for the 1984 budget.

I have submitted figures to both Senator Simpson and his committee and Congressman Mazzoli and his committee as to estimated cost. So the administration is committed to enhancing the budget to meet the needs of that legislation.

Senator **Laxalt**. Let me ask you this. Just on the assumption that the bill might not fly—and to say the least it is somewhat controversial, particularly on the House side—is the approach that we are adopting here now pretty much getting all the eggs in the legislative basket? Should we be thinking in terms of an alternative plan in the event we don't get this legislation, so we can do a more effective enforcement job? That obviously in your case, as well as most of the agencies, translates into initial dollars. What are the policy considerations here? The members of my subcommittee are interested in that.

Mr. **Nelson**. Certainly, Mr. Chairman. That is a very good question.

I might, just for a little background, state that the INS budget has not remained static. It has in the last five years doubled in dollars.

BUDGET INCREASES

Senator **Laxalt**. What has been the increase?

Mr. **Nelson**. In positions, we are up to 9,775.

Senator **Laxalt**. I mean overall in the last 10 years, discounting inflation, just roughly.

Mr. **Nelson**. In dollars, we went from $200-some million to over $500 million currently. In workyears, we did gain 1,000 positions in the 1982 amendment. But our overall net positions are up I believe 400 or 500 over the 1978 range.

But in further answer to your question, we think that the data processing and enhanced communications increases in the budget are critical to make us a more modern agency. It would help us do our job better. Just putting more money into it obviously isn't going to do the job, though. We did put effectively in this budget almost $30 million in increases into data processing and communications. That will help us overall.

We are certainly aware of, with some of the increased border pressures and so forth, the possible need for other enhancements. That is being looked at. But we, of course, do very much hope the legislation will go forward and be the vehicle to get the job done better.

We need, in addition to better border enhancement, of course, sanctions and other techniques to respond to the illegal immigration pressures.

BORDER ENFORCEMENT

Senator **Laxalt**. What would you ideally need to effectively close the borders? Have you ever fooled with that? I know it is pie-in-the-sky, but this is becoming a horrendous problem.

Mr. **Nelson**. No question about it.

Senator **Laxalt**. It may well be we may not have a political solution, so the ball might be right squarely in your court before long. I don't think we can continue to have this situation, to have all of these unfortunate people drifting over and causing disruption not only to our society but theirs as well.

Mr. **Nelson**. No question there is a very serious problem there, and we are very concerned especially with the current situation. As the Attorney General said, if you quintupled the amount at the border, you could not stop it.

Senator **Laxalt**. Are you saying the approach is insoluble from the standpoint of——

Mr. **Nelson**. You are never going to stop the flow entirely. It is 2,000 miles of border for Mexico, 4,000 for Canada and 8,000 miles of seaboard. The nature of our society is that it is an open society. I don't think you will ever stop completely the flow. But I think we can reduce it. There is a lot of advanced technology we have. We have helicopters and better infrared devices to detect people in darkness. So we are adding better technology.

Senator LAXALT. We are just nibbling at the edges though, aren't we, with the improved technology in terms of the flow? My people tell me that. They will deport them and they are back within hours.

Mr. NELSON. Well, that is a problem, of course.

Senator LAXALT. Apparently their network is a little bit better than ours. [Laughter.]

Mr. NELSON. There is no question that there is a lot of return flow. This is, of course, a difficult problem. As you apprehend people at the border, detain them overnight, and put them back across the border, they are, of course, able to come back.

We are doing several things. If they are coming across the California border, we will sometimes transport them to Arizona or other locations and put them back across the border there. That helps a little, slows them down. [Laughter.]

There have been other techniques performed in the past. I think it is important we pursue some of our deep concerns with the Mexican government. We are in the process of doing that.

Senator LAXALT. Probably the long-range solution would be a stabilization eventually of the Mexican economy. But that doesn't look too promising either these days.

Mr. NELSON. No question that would be a very important thing. It is essential, Mr. Chairman, that we have the mixed bag of tools, if you will, of the border enforcement. As I mentioned, we are doing a better job. There is always a question of additional resources there. But to be able to attack the major problem, which is bringing illegals in, we have to be more effective. That is why we need that balanced approach of the new legislation as well as improved border enhancement.

EMPLOYER SANCTIONS

Senator LAXALT. The employer sanction provisions, you are well aware of them. That is perhaps the most controversial aspect of all the legislation, aside from the overall political consideration. As a practical matter, do you think the employer sanctions will work when you are dealing with the identification of the type that is contemplated, or are we simply going into artificial and phony documents?

Mr. NELSON. Yes, I think it will work. America is a law-abiding society, and people will attempt to abide by the law in most cases. Right now you have the situation where it is illegal for an alien to be here without documentation. There is absolutely no prohibition for the employer. I think once we put that into statutory form and provide penalties for violations most employers will make an honest effort to comply. That will give us a tremendous boost. Sure, there will be problems. There will be dishonest employers. Again, by targeted enforcement we think we can really deal with that. We need, of course, to improve the documentation. That is one of the things that is being worked on. But even with existing documentation I think it is quite obvious that many employers know very well in most cases who is legal and who isn't. We can deal with that effectively, and I think make a tremendous impact.

NATIONAL IDENTIFICATION CARDS

Senator **Laxalt**. Are you seriously considering national identification cards?

Mr. **Nelson**. I think you have several problems in both the practical and cost aspects of that. I think Senator Simpson's approach is very effective. It will give the administration several years to work on a better approach and then, no question, we will try to do that. The word national identification card raises some hackles, I think, beyond what it should.

Senator **Laxalt**. To say the least.

Mr. **Nelson**. Right, to say the least. There is no attempt or intent to have a national identifier card for all purposes. Whatever documentation that would be developed under the legislation in the future, would clearly be for work purposes.

Senator **Laxalt**. I gather, and tell me if I am wrong, that in terms of the legislative approach, as far as you people who work with this problem in the field are concerned, the approach contemplated by Simpson-Mazzoli is fairly good?

Mr. **Nelson**. Yes.

Senator **Laxalt**. It meets with your general acceptance.

Mr. **Nelson**. Yes. And it clearly reflects the major principles of the President's bill which was submitted last year.

PROJECT JOBS FOLLOW-UP

Senator **Laxalt**. INS investigators apprehended over 5,000 employed aliens earning in excess of $50 million on an annual basis while participating in the project jobs task force. Are you current on this?

Mr. **Nelson**. Yes, I am.

Senator **Laxalt**. Did INS or any other Government agency do a follow-up study to ascertain how many of the 5,000 jobs were filled by citizens or legal aliens?

Mr. **Nelson**. We did, Mr. Chairman. First I would like to discuss the report on project jobs. That was conducted about 1 year ago, at the end of April 1982, with the idea of targeting higher paying jobs that might be attractive to unemployed U.S. workers.

During that work project we apprehended 5,440 employed illegal aliens, with an average wage of $4.81 an hour. That was $1.46 above the minimum wage, and represented more than $50 million in annual wages.

Senator **Laxalt**. Were these mainly farm workers or jobs all across the spectrum, restaurants, hotels, the whole bill?

Mr. **Nelson**. Across the spectrum. In fact, Mr. Chairman, the project was in eight cities. Los Angeles and Houston were the only cities close to the border. We were also in interior areas.

Senator **Laxalt**. Did we do anything here in town?

Mr. **Nelson**. In the Washington area, no. We were in Chicago, New York, Newark, Denver, Los Angeles, Houston, and I think I missed two somewhere. They were major cities, and in most cases, as I indicated, quite far from the border. We were going after those in the industry service things, not general agriculture or the low-paying restaurant type of jobs that is so often the case because we wanted to see what was out there in what we call the higher-paying job area.

I think those figures reflect that. They are clearly way above the minimum wage. Many in those jobs were making $8, $9, $10 an hour. We have seen that same pattern in many areas. So there are a lot of illegal aliens in during the duration of this project and other enforcement efforts that are in fact earning substantial wages and do have impact on our unemployment situation.

Senator LAXALT. Do you have a ballpark estimate? As you know, the political feeling around here is, the fact these people are coming in and taking jobs. I think that is probably true in a lot of areas, particularly the Southwest, and most particularly talking about the ranches, farms, mines, restaurants. But, you are dealing with a wholly different area here because you are talking above minimum wage. You are talking about significant numbers. You are talking about a lot of money.

Mr. NELSON. Yes, sir.

NUMBER OF ILLEGAL ALIENS IN UNITED STATES

Senator LAXALT. People who may be in competition with American citizens.

Do you have any ballpark estimate at all, based upon this study or other work, indicating how many illegal aliens there are here that are taking jobs that should be held by our own people and what kind of overall dollars we are talking about that are being extracted from our economy?

Mr. NELSON. Yes, sir. Again the nature of the issue is difficult, if not impossible, to document.

Senator LAXALT. I understand that. Just ballpark.

Mr. NELSON. In terms of ballpark, we are talking about an estimate of 3.5 to 6 million illegal aliens currently residing in the United States and it could even be higher.

Senator LAXALT. I see. That is overall.

Mr. NELSON. Overall.

Senator LAXALT. Is it that low? I have heard estimates well above that.

Mr. NELSON. Yes, sir. The estimates are low. That is from the census figures a couple years ago. So we are going back.

Senator LAXALT. Explain that now. The census figure a couple years ago?

Mr. NELSON. I am not sure exactly how that developed, Mr. Chairman, but there were some semi-official estimates based on some census calculations as to that figure.

Senator LAXALT. That is necessarily highly speculative.

Mr. NELSON. Of course it is, no question. Some will go as high as 20 million.

Senator LAXALT. Yes; I have heard that.

Mr. NELSON. The worry is we also know we are probably getting a net increase of half a million or more a year. So there is a tremendous impact.

Now about the job and dollar impact, again it is difficult to tell. But there was a Department of Labor study and they relied on several well-known economists, and even being conservative they felt if one out of five illegal aliens did displace an American worker, again I think that is probably conservative, you were talking about something like a $7 billion impact a year on job displacement in terms of unemployment benefits. Clearly while you can't prove it either way, there is some strong displacement there. It varies from industry to industry and area to area. We are convinced that is a very significant impact. You are dealing with jobs bills. We think there are some real job aspects in immigration.

Senator LAXALT. I don't think there is any question about it.

Mr. NELSON. To finally answer your question on project jobs, we conducted an informal employment survey to ascertain the number of vacated jobs subsequently filled by legal workers. Of the employers who cooperated, and a number did not, about 73 percent of the jobs vacated were subsequently filled by legal workers. As to the recidivism, that is hard to know. We also know of the 5,400 apprehended, we actually deported well over 4,000, a very significant 72 percent.

Senator LAXALT. Have you had any later trace about return flow?

Mr. NELSON. No, we have not. That has been a difficult thing to address. There has been, of course, a lot of speculation in the news articles and so forth that say most came back or other illegal aliens have come in. But frankly I think that their research has been more speculative than ours. There is a certain return and that is part of the normal problem. But we think the project itself is very successful, and the targeted enforcement approach it represents is one we think is important to the ongoing efforts.

IMPACT OF 1984 U.S. OLYMPICS

Senator LAXALT. Lastly, Mr. Commissioner, I ask you a question that was obviously put together by the jocks on my staff. What do you expect to be the impact of the 1984 Olympics on INS?

Mr. NELSON. We are prepared in part of our budget request, Mr. Chairman, for 38 additional positions and $640,000 to apply those individuals to work on the Olympics in Los Angeles. Then it ties together with another project, the opening of another border port of entry at San Diego (Otay Mesa). So those same positions can be assigned at the new border opening.

We anticipate 28 million people going through annually. That will give us the capability of dealing with the Olympics. There is a lot of planning going on.

Senator LAXALT. You don't think that will create any serious problems.

Mr. NELSON. No, not at this time. It is a matter of planning and getting people. But we think it is moving along effectively.

SUBMITTED QUESTIONS

Senator LAXALT. Very well. I think that is all I have for now, Mr. Commissioner. I appreciate your time and attention. We may have some other questions later. You are dealing in a very sensitive, very important area.

Mr. NELSON. Yes, sir.

Senator LAXALT. We look forward to working with you.

Mr. **Nelson**. Thank you, Senator. I appreciate it very much.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR LAXALT

Authorization and Funding for Increased Border Patrol Positions

There are limitations on the capacity of INS to train enforcement officers in a short period of time. If we wait until Congress passes the Immigration Reform and Control Act to recruit additional personnel, an enhanced enforcement presence will not be felt for a considerable period after enactment. Doesn't it make sense, therefore, to act now to authorize and fund increased positions?

The Department is aware of the time required to prepare for increased enforcement efforts. Rapid action by Congress on the Simpson-Mezzoli Immigration Reform and Control Act may permit the Administration to submit a funding request shortly.

As part of an accelerated effort to train a large number of Border Patrol agents should the legislation be enacted, INS has developed contingency plans which would provide for the establishment of a temporary training facility which, in conjunction with our present training academy at Glynco, Georgia, would recruit and train up to 900 Border Patrol agents in as little as six months. There are presently 24,000 applicants for Border Patrol agent positions, easily enough to produce 900 qualified applicants to complete the training course and begin field work in earnest. These agents would become fully productive one year after they begin the training.

Although employer sanctions are expected to reduce opportunities for employment which encourage aliens to enter illegally, the necessity for strong border enforcement will continue. For generations the United States has been perceived in foreign countries as an accessible job market. There is no reason to suppose that these perceptions will be quickly altered. The flow of aliens is likely to remain at its present rate until the law takes full effect, employers stop hiring illegal aliens, news of the change reaches into the remote areas of the sending countries, and the aliens become convinced that the option of United States employment is no longer available. If the flow of crossers is not restricted, the result will be a large population of illegal alien laborers available to a diminished number of employers willing to hire illegals. This unstable situation would endanger the long term success of employer sanctions legislation in a number of ways. First, it would motivate the aliens to seek fraudulent identification to prove work eligibility. Secondly, it would cause more aliens to explore the possibilities of welfare and crime as a means of income and support. Lastly, it would increase the number of fraudulent amnesty applications.

Adjudications and Naturalization Caseload

Please explain why the proposed budget does not include new positions to handle the enormous adjudications and naturalizations caseload?

The merger of the Adjudications and Naturalization Divisions enables the Service to more efficiently deploy the combined resources for the two programs based on the total examinations workloads in individual field offices. This new staffing flexibility is the result of the transfer of former general attorneys (Nationality) out of the Naturalization programs (and into litigation activities as part of the Service's Attorney Consolidation Plan), thereby vacating examiner positions which can then be readily redistributed to the field offices with the largest workloads. It must be emphasized that the Naturalization Division brought its positions with it when it merged with the Adjudications Division. The merger did not result in the transfer of the Naturalization workload to the former Adjudications Division staff.

The merger provides the Service with a crucial opportunity to streamline its operation in both programs. It allows the Service to integrate the best elements of each program into modified procedures and staffing patterns which will result in higher quality, more effective and more productive work, thereby directly addressing our examinations backlogs.

The key to future improvements in the naturalization area is passage of legislation to allow administrative naturalization which would eliminate the paperwork and processing requirements imposed by the present court proceedings.

Travel Costs of Expelled Aliens

You indicate on page 23 of your budget request that the Government paid all or part of the travel costs of 81 percent of the aliens expelled who incurred travel costs in fiscal year 1982. How much did this amount to last year? What opportunities exist to reduce these travel costs, e.g., expand use of voluntary departure?

Of the 823,731 expulsions in 1982, travel costs were incurred in 249,310 cases (30 percent). In 202,654 cases, (81 percent) the Government paid all or part of the alien's fare, and this amount totalled $8.2 million.

Under the I-274 and I-274A programs, aliens are advised that if their removal is at Government expense, they must obtain the Attorney General's consent prior to applying for readmission. Officers are encouraged to use the I-274 and I-274A programs as often as possible, and to collect travel costs from aliens who are able to pay.

Backlogs in Applications and Petitions

Two of your major objectives in citizenship and benefits are to reduce backlogs of pending adjudications and applications. However, the table on page 26 indicates backlogs are increasing or remaining level in fiscal years 1983 and 1984. What sorts of adjudications and applications make up the backlogs? What steps are being taken to reduce them?

The backlogs projected for 1983 and 1984 include all types of applications and petitions. Examples are Forms I-130 (classification status of alien relative for visa issuance), I-140 (classification preference status of alien on profession/occupation), I-589 (asylum request), N-400 (petition for naturalization), and N-600 (certificate of citizenship). Based on historical receipts and present staffing, these are the levels of anticipated backlogs. However, in an attempt to increase productivity, the Service is designing a balanced adjudication system for implementation on October 1, 1983. This new system represents one of the best efforts by the Service to solve the problem of backlogs.

Asylum After Entering the United States

On page 28 you provide statistics on the numbers of refugees approved for entry to the U.S. How many others have applied for asylum after entering the U.S.?

In FY 1982, 33,296 aliens filed asylum applications with the district directors and 3,627 initial asylum cases were filed with the immigration judges, totaling 36,923 combined applications.

How many have been approved?

3,909 asylum cases were approved by the district directors and 87 initial cases were approved by the immigration judges, totaling 3,996 cases. Denials totaled 7,552 with 7,255 being denied by the district directors and 297 by the immigration judges. At the end of 1982, a total of 140,803 initial asylum cases were pending before INS (128,387 before the district directors and 12,416 before the immigration judges).

Can a person denied status as a refugee be granted asylum if he gains entry into the U.S.?

CFR 208.8(F)(1)(i) provides that a request for asylum or extension of asylum status must be denied if it is determined that the applicant is not a refugee as defined in section 101(a)(42) of the Immigration and Nationality Act. This is the same criteria used to determine refugee status abroad. However, it is conceivable that persecution or a well-founded fear thereof might arise subsequent to a denial of refugee status, thereby entitling an applicant to a grant of asylum in the United States.

Comparison of Immigration Control Systems

On page 32, you indicate you will maintain the Nonimmigrant Document Control System (NIDC) and operate the new Nonimmigrant Information System (NIIS). Could you explain the differences between these two system? What are the costs and benefits associated with the systems?

NIIS will fully replace NIDC by the fourth quarter of 1983. These systems are running parallel until the majority of forms from nonimmigrants who arrived prior to January 1, 1983 are collected and processed. NIDC will than be discontinued.

NIDC is a records management system used as an index to microfilmed records. It only contains sufficient information to retrieve microfilmed cases with minor additional statistical information. It is accessible only by the Central Office. Statistical and management reports are processed by another system.

NIIS is a total system whereby all information contained on the arrival/departure record (I-94) is automated, and is on-line to INS field personnel. It produces both statistical and management reports. NIIS will provide INS with a much improved capability to collect, store, and disseminate information regarding individual nonimmigrants or groups of nonimmigrants.

The NIDC annual cost is $2.9 million. The NIIS annual cost for 1984 is estimated to be $3.6 million.

What progress has been made in eliminating the backlog of unprocessed I-94's and ensuring that departure copies are collected?

INS has almost completely eliminated the backlog of unprocessed I-94's and currently has only 600,000 remaining to be processed. The backlog will be totally eliminated by May 31, 1983.

In support of the Service NIIS will ensure that departure form copies are collected through the increased use of notification signs, drop boxes, and use of Canadian and Mexican government officials and local state personnel to ensure collection at land border ports.

NIIS further ensures forms collection through on-going liaison with transportation associations and a monitoring procedure whereby NIIS contractor ensures forms are collected on departing flights.

QUESTIONS SUBMITTED BY SENATOR HOLLINGS

Immigration Judge at Charlotte Suboffice

At last year's hearings we were advised that "the Acting Chief Immigration Judge has been requested to make immediate arrangements for a judge to visit the Charlotte office." In our Report, the Committee voiced its concerns that no Administrative Law Judge had spent a term of service at Charlotte. We were subsequently advised that a Washington based judge would be assigned to the backlog of more than 300 exclusion and deportation cases at the Charlotte office. As of this date, no judge has appeared except for at a one time effort to deal with Haitian cases.

When will a judge be present in Charlotte and how long will the judge be there?

An immigration judge conducted hearings in Charlotte on March 28, 29 and 30, 1983. He will return for an additional three days in June.

I understand a judge can usually work through 12 to 15 cases per day. There is about 20 to 25 days' work in Charlotte. When can we expect to have the backlog eliminated?

According to recent statistics provided to the Office of the Chief Immigration Judge by the INS General Counsel's office, the backlog in Charlotte prior to the March trip by the immigration judge was 175 cases. There were approximately 80 cases calendared to be handled by the immigration judge for the three days in March, and 32 final orders were issued.

Total elimination of the backlog in Charlotte will depend on a variety of factors, including the difficulty of the particular cases involved, the issues presented, the tactics used by counsel, and the availability of immigration judges to hear these cases.

The Executive Office for Immigration Review will make every effort to send immigration judges to Charlotte on a regular basis until the backlog is eliminated.

Border Patrol Positions

Please supply for printing in the record a listing by location of the authorized and filled Border Patrol - Immediate Border positions.

Border Patrol - Immediate Border
Authorized and Filled Positions by Location

	Mar. 6, 1980		1981		1982		1983	
Location	Auth.	Filled	Auth.	Filled as of 9/30/81	Auth.	Filled as of 9/13/82	Auth.	Filled as of 2/5/83
Central Office	17	12	175[a]	14	57	12	34	17
Eastern Region	3	3	3	3	3	3	3	3
Buffalo Sector	29	30	31	29	32	29	40	32
Ogdensburg Sec.	29	27	28	26	28	26	...	...[b]
Swanton Sector	52	47	51	48	51	50	70	66
Houlton Sector	34	33	34	34	34	32	34	30
Southern Region	6	5	7	6	6	5	6	4
Marfa Sector	112	90	114	99	121	104	121	116
El Paso Sector	405	367	405	382	424	386	424	386
Del Rio Sector	223	196	222	211	231	207	231	225
Laredo Sector	142	146	143	133	157	133	157	161
Mcallen Sector	203	184	200	185	211	185	211	210
Northern Region	3	1	3	2	3	1	3	3
Blaine Sector	32	32	32	30	32	30	32	31
Spokane Sector	28	28	28	27	28	26	28	26
Harve Sector	23	22	24	21	24	21	24	23
Grand Forks	34	33	34	32	34	32	34	31
Detroit Sector	28	26	28	23	28	22	28	25
Western Region	8	6	9	8	8	7	8	6
Tucson Sector	165	141	166	162	176	159	176	167
Yuma Sector	187	172	186	172	200	178	200	182
El Centro Sec.	186	157	188	164	206	173	206	174
Chula Vista	579	483	579	522	596	521	596	535
Total	2,528	2,241	2,690	2,333	2,690	2,342	2,666	2,453

[a] Includes 160 Congressionally authorized positions which were held in the Central Office. OMB ceiling limitations did not allow filling these positions.

[b] Ogdensburg Sector was closed on June 30, 1982. Its responsibilities have been taken over by the Buffalo and Swanton Sectors.

Authorized and Filed Positions by Type of Positions

	Mar. 6, 1980		1981		1982		1983	
Positions	Auth.	Filled	Auth.	Filled as of 9/30/81	Auth.	Filled as of 9/13/82	Auth.	Filled as of 2/5/83
Officer	2,120	1,917	2,226	2,000	2,275	2,005	2,239	2,079
Pilot	56	48	59	42	59	42	63	48
Support	352	276	355	291	3[illegible]6	295	364	326
Total	2,528	2,241	2,690	2,333	2,690	2,342	2,666	2,453

INS plans to periodically submit a report to the committee.

INS advised the Committee late in September 1982 that 2,116 of the 2,275 Border Patrol officer positions were filled. In addition, there was a class of 48 in training. In March 1979, we had 2,097 officer positions filled, so our net gain on the border over 2 1/2 years has been 67, including the 48 in training. How many officers do we now have on the border?

As of April 4, 1983, the officer on-duty force for the Border Patrol-Immediate Border program was 2,137, an increase of 40 over the 1979 figure.

Reprogramming Request

A reprogramming request dated February 9, 1983 proposes to transfer 24 Border Patrol positions to such things as the Officer Development Training Facility in Glynco, Georgia the Commissioner's office, and for administrative services at the Southern Region. Why are we taking positions out of the Border Patrol and beefing up INS overhead?

The demand for Border Patrol instructors at the Officer Development Training Facility in Glynco, Georgia has required the detailing of Border Patrol agents from the field to Glynco. This has proved to be an inefficient and expensive utilization of resources. Since the long term demand for Border Patrol instructors is expected to increase and not decrease, prudent management requires that additional permanent positions be made available for training. The net result of increasing the permanent staff at Glynco by ten permanent positions will lead to a more effective Border Patrol operation.

The Southern Region grew by some 354 positions in 1982 so the need to beef up the support services is understandable. Presumably, the buildup was due to the influx of the Haitians and Cubans in South Florida. Now that the Haitians have been released by court order, do you expert to maintain 2,870 positions in the Southern Region?

As a result of the general enforcement buildup brought about by the 1982 admendment, INS management has proposed some reprogrammings to provide additional administrative support. This will provide greater overall efficiency for INS enforcement effort in the Southern Region.

The positions are to be assigned to both the regions and the central office. Two positions are to be transferred to Executive Direction and Control to provide stronger and more effective management. Most of the positions (twelve) are being transferred to the Southern Region to help relieve some of its understaffing problems which are the result of losses sustained in the previous regional realignment. For the past three years the administrative service workforce for the Southern Region has averaged only 2.5 percent which is more than one percent less than the administrative services provided by the other regions. Even with this proposed increase of administrative services the Southern Region will still be understaffed.

The 1982 amendment provided resources for a strengthened enforcement program as well as funds for the detention of Cubans and Haitians. For example, the largest expansion in response to the Cuban and Haitian problem in the Southern Region was the assignment of 68 positions for the Krome North Service Processing Center. Krome North is now operating as a Service Processing Center (SPC) for other than Haitians and, like other SPC's in the Southern Region, is often at or near its rated capacity. In summary, the effects of the court order have been superseded by other events, and the demands in the Southern Region are greater than ever. Out of necessity, INS intends to generally maintain at least its current authorized force of 2,780 positions in the Southern Region.

Federal Executive Boards

Two additional postions are requested for the Executive Board in Los Angeles. What are the functions and costs of this Board and how many positions are currently assigned to it? Are there Executive Boards in other INS regions, and if so what are their costs and position levels?

Initially established by Presidential Memorandum dated November, 1961, and enlarged on by President Nixon in a memorandum dated October, 1969, the Federal Executive Boards have grown into a significant force for improved management of federal activities in twenty-five of the nation's largest cities.

By bringing together the principal representatives of each federal agency in each designated city, the Federal Executive Boards have improved communication and coordination between the various federal jurisdictions in order to meet the demands of an increasingly complex society. Without infringing on the authority of individual agencies and by keeping in constant perspective the fact that federal agencies represent one Government, the Boards establish excellent communication between units of Government at the grass roots level and Washington. At the same time, field executives can learn quickly of national programs which have Presidential interest and obtain support for their activities from the highest level of Government.

As a part of its continuing support for the Federal Executive Boards the Department of Justice has funded the administrative staff of the Board in Los Angeles. The annual cost of this support is approximately $70,000 and consists of the salaries and expenses of one GS-6 secretary and one GS-13 executive assistant. In prior years the costs have been absorbed (generally for a two-year period) by the United States Marshals Service and the Drug Enforcement Administration.

On October 7, 1981, DOJ requested that INS fund these costs for 1982 and 1983. The Department provided the two permanent ceilings necessary and INS provided the permanent positions and funds. The Personnel and Training Staff, Justice Management Division, coordinated the personnel transfers.

Seized Vehicles

INS seized more than 5,000 cars, trucks, motor homes, boats, and other conveyances worth more than $12,600,000 in 1982. Has the $12,600,000 been deposited in the Treasury?

Due to the period of time between the date of seizure and the actual disposal of a forfeited conveyance it is difficult to relate amounts deposited to the Treasury to the appraised values of seizures made during a specified period, i.e., conveyances seized during one accounting period may be disposed of in the subsequent accounting period. While revenue information is maintained as part of each seizure case file, aggregate revenues covering a particular period of seizures is not readily available under existing information systems. However, we know that the amount deposited in the Treasury as a result of the 1982 seizures would be considerably less than $12,600,000.

There are several factors which cause the amount of revenue resulting from seizures during any particular period to be less than the total appraised value of the seized property. The most significant portion of the disparity results from adjustments due to unforeseen expenses. Because the seizure is intented to impose a penalty only upon those who are significantly involved in criminal enterprise, these processes are instituted to achieve an equitable result in cases involving innocent owners or nonculpable third parties having financial interest in the conveyance (usually lienholders).

Second, a portion of the conveyances which are seized and forfeited are retained by INS and other federal agencies to conduct surveillance and related enforcement activities.

Third, due to the period of time required to forfeit and dispose of seized conveyances and the lack of resources available for proper care, maintenance, security and marketing of disposals, realized revenue is usually less than the appraised value at the time of seizure.

Information and Records Management

Neither the Commissioner's statement nor the justifications give us much of an idea what the $10,090,000 increase for the National Records Processing Center is supposed to do. Please briefly describe just what is exactly to happen by establishing this center.

The records center project is part of an overall program to improve the processing characteristics and performance of the Service. In conjunction with the Service's programs in up-front adjudication and ADP improvement, it is planned that the records center will provide efficiencies in the handling of records and the provision of information to the Service's operating units. Specifically, it is expected that the records center will virtually eliminate the incidence of "lost" records, thereby significantly reducing the wasted processing time associated with searches for files. In addition, the center will provide a central location for the provision of information relative to a specific case, and, as such, will eliminate the need for contacting multiple offices to locate a file and acquire needed information. In the records center concept, it is planned that the facility will also have a cadre of information specialists and immigration officers who will provide abstracts or interpretations of file information, depending on the complexity of the inquiry. This latter capability, along with the up-front adjudication program and the expanded ADP systems should reduce significantly the need for transferring files, a process which has hampered the Service's performance in the past.

The justification mentions serverence pay for employees choosing not to relocate to the Center. This certainly sounds like a function that does not have to be Washington. Where will the Center be located?

At this time, it is not possible to identify any city under consideration as a location for the National Records Center. Several months ago, the INS asked GSA's Public Buildings Service to survey the availability of a site in the states of Kansas, Nebraska, Iowa, Missouri and Oklahoma. The preliminary indication is that a suitable facility is unavailable in those states. Based on that, the INS is in the process of expanding the search to other areas.

At present, it is the intent of the Service to locate the National Records Center in a city other than Washington, D.C. All planning for the Center has been predicated on the assumption that it will not be located in Washington, D.C.

QUESTIONS SUBMITTED BY SENATOR CHILES

Krome North Detention Facility

I am extremely concerned once again about conditions at the Krome North facility in South Florida. I have been assured repeatedly by the Department of Justice that Krome would not be a long-term detention center but would, at the most, be a short-term processing center. With the influx of Haitians, Salvadorans, Nicaraguans, Mexicans and others into the United States, Krome is near its capacity (525 as directed in Public Law 97-92).

Provide a month by month breakdown of the population of the Krome facility since the 1982 Conference Report (November 21, 1981).

Two lines left

The following figures reflect the average daily population and the peak population at the Krome North Service Processing Center for the period December 1981 - March 1983.

Month	Average Daily Population	Peak Population
1981		
December	734	830
1982		
January	650	728
February	584	644
March	613	635
April	567	627
May	602	609
June	602	609
July	442	548
August	248	395
September	102	147
October	105	131
November	171	212
December	291	390
1983		
January	277	347
February	285	352
March	320	382

How many aliens have been detained in Krome that were not apprehended in Florida?

Since January 1, 1983, about 300 aliens who were not apprehended in Florida have been detained in Krome. Of these, more than two-thirds were apprehended elsewhere in the Southern Region. All transfers are coordinated with the Southern Region to ensure that the facility is not inundated or overburdened.

Is Krome North considered a long-term detention facility?

A number of improvements have been made to the Krome North facility which enable it to handle longer-term detainees. With these improvements, INS is better able to provide adequate care for these detainees. The Federal Prison System participated on a short-term basis in the management of Krome so that INS could benefit from their expertise in the area of long-term detention.

Long-Term Detention Facilities

Provide a list of long-term INS detention facilities.

INS maintains the following detention, or Service Processing Centers:

Brooklyn, New York
El Paso, Texas
El Centro, California
Krome North, Florida
Port Isabel, Texas

Additionally, Service Processing Centers will become available for INS in Boston, Massachusetts and Florence, Arizona later this year.

These centers are not designated as long-term facilities, although with the increase in political asylum applications, average stays in detention are increasing.

INS and the Federal Prison System are working together on the design and construction of a permanent 1,000-bed detention facility to be located in Oakdale, Louisiana. This facility is expected to be online in 1985, and will be operated jointly by the two agencies. INS will handle the deportation and transportation functions and FPS, because of its expertise in longer-term detentions, will have primary responsibilty for the detention area.

Transfer of Aliens

What is the policy with regard to transferring aliens from state to state?

The Service routinely transfers aliens from among INS facilities according to space availability.

Adequacy of Enforcement in Florida

The recent arrival of small boats of Haitian aliens on Florida shores has again demonstrated the need to better control our seas and shorelines. Does the INS maintain sufficient border patrol, sea and air crafts to detect and detain such illegal entries?

The Service has increased the enforcement posture in the South Florida area to the extent felt necessary to respond to the threat potential. Part of the Service's strategy is to increase liaison with local, state and federal agencies who already have assigned personnel in the area, and to act in concert with those agencies to provide adequate coverage without duplication.

What is the number of personnel assigned to such tasks and how many craft are utilized by INS for such purposes?

Currently we have 52 Border Patrol agents and 23 anti-smuggling investigators assigned to the interdiction of illegal aliens. This number is increased through detail of officers when the need arises. We are utilizing three high speed patrol boats for close coastal control along with one aircraft.

Claims for Asylum by Central Americans

Of the increasing number of aliens seeking entry into the United States from Central America, what percentage are seeking asylum?

During 1982, 119,260 nonimmigrant visas were issued to citizens of Central America, while 33,332 were refused. For the same period, approximately 25,000 Central Americans requested asylum; these in addition to the 15,000 pending cases. However, it is impossible to determine the percentage of Central American aliens seeking asylum among those seeking entry to the United States. Statistics do not indicate how many undocumented aliens gained entry to the United States.

Of this number, what are the projections for the number whose claims for asylum are legitimate?

At the beginning of 1981 there were 6,495 pending asylum cases from Central America, and another 9,556 were received. Of those, 300 were approved and 592 were denied. In 1982, in addition to the 15,160 pending cases, 24,931 new cases were received for a total of 37,541. Of those, 408 were approved and 2,024 were denied.

Recent Court Decisions

How have recent court decisions affected INS, specifically the Krome operations?

The most recent decision affecting INS operations is that of the 11th Circuit in Louis v. Nelson. This action was originally filed on behalf of detained Haitian aliens in the Southern District of Florida. If upheld, the relief fashioned by the court may require procedures to be changed that effect the treatment of aliens outside of the class plaintiffs. The court held that the plaintiffs must be informed of a right to claim asylum and additionally that INS must inform them that they may apply for asylum before an INS District Director prior to making such application before the immigration court.

The court additionally held that detained aliens had the right to access of counsel, but did not elaborate on the extent of that right or the procedures involved. In its instructions on remand to the Honorable Eugene P. Spellman, Judge, United States District Court, Southern District of Florida, the court requested that procedures be implemented to ensure that the detention policy of INS be evenly applied to aliens of all nationalities who were being detained. The court issued this instruction after finding that, in its opinion, INS had discriminated against Haitian aliens with regard to the application of the detention policy. Further the 11th Circuit upheld the finding of Judge Spellman, that the detention policy of INS was not properly promulgated pursuant to the Administrative Procedures Act.

OFFICE OF JUSTICE ASSISTANCE, RESEARCH, AND STATISTICS

STATEMENT OF ROBERT F. DIEGELMAN, ASSISTANT DIRECTOR, OFFICE OF JUSTICE ASSISTANCE, RESEARCH, AND STATISTICS

ACCOMPANIED BY:

- **ALLEN J. VANDER-STAAY, BUDGET OFFICER**
- **JAMES K. STEWART, DIRECTOR, NATIONAL INSTITUTE OF JUSTICE**
- **STEVEN R. SCHLESINGER, DIRECTOR DESIGNATE, BUREAU OF JUSTICE STATISTICS**
- **ALFRED S. REGNERY, ACTING ADMINISTRATOR, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION**
- **KEVIN D. ROONEY, ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION**
- **CHARLES R. NEILL, CONTROLLER**
- **JOHN R. SHAFFER, DIRECTOR, BUDGET STAFF**

1984 BUDGET REQUEST

Senator LAXALT. The final request we will review today is for the Office of Justice Assistance, Research, and Statistics, [OJARS]. The budget request for fiscal year 1984 is $152,859,000, an increase of $27,336,000 over the amount enacted for fiscal year 1983.

Appearing on behalf of the request is Mr. Robert Diegelman, Assistant Director of OJARS. We welcome you.

I would also like to say that it has been indicated to me that you have been acting here on an interim basis and you have done an extraordinarily good job. On behalf of the members of the subcommittee, I want to compliment you for that.

Mr. DIEGELMAN. Thank you very much, Senator.

OPENING STATEMENT

Senator LAXALT. We would be pleased now to hear your testimony either in full or summary form.

Mr. DIEGELMAN. With your introductory comments and the compliment you just paid me, I would be willing at this point to just call it a day. [Laughter.]

Being that surely is not the case, I would like my full statement submitted in the record and I would like, in the interest of time, just to give you a very quick summary and also indicate that today I am appearing here in behalf of Mrs. Lois Herrington, who, as you know, was appointed by the Attorney General as Acting Director of OJARS effective March 7. Due to the recency of her appointment, she has asked me, with my familiarity of the budget, to basically present the consolidated request before the subcommittee. I would like to summarize just some of the major items I think should be of interest to you.

[The statement of Robert Diegelman follows:]

PREPARED STATEMENT OF ROBERT DIEGELMAN, ASSISTANT DIRECTOR, OFFICE OF JUSTICE ASSISTANCE, RESEARCH, AND STATISTICS

Mr. Chairman and Members of the Subcommittee: I am pleased to have the opportunity to appear before you in support of the 1984 budget request for the Office of Justice Assistance, Research, and Statistics. As you have undoubtedly heard, the Attorney General appointed Lois Haight Herrington to be the Acting Director of OJARS. Due to the recency of her appointment she has requested that I appear before this committee to support the OJARS budget request. The request is for $152,859,000 and 249 positions which represents a net increase of $27,336,000 above the $125,523,000 appropriated for 1983, and a decrease of 8 positions over the 257 approved for 1983. This budget request combines two previous appropriations: "Law enforcement assistance" and "Research and statistics." Since funding for the Law Enforcement Assistance Administration program was terminated in 1980, the need for two appropriations ceased to exist.

Included in this request is an increase of $1,700,000 for the Public Safety Officers' Benefits Program; a net increase of $212,000 for adjustment to base items such as uncontrollable increases and decreases; an increase of $1,700,000 for statistical programs; a reduction of $427,000 and 8 positions for management and administration as well as an increase of $90,000,000 to initiate a State and local assistance program. The request also provides for a reduction of $67,600,000 to eliminate juvenile justice programs.

An increase of $1,700,000 is requested so that the Bureau of Justice Statistics can develop a Federal transaction statistics data base of Federal offenders, prepare and disseminate a Statistical Report on the Federal Justice System, and conduct the quinquennial census of State correctional facilities and survey of prison inmates.

Great strides have been made toward accomplishing the major statutory thrust of the Juvenile Justice Act, particularly deinstitutionalization of status offenders. As a result of previous funding, monitoring capabilities and a policy framework have been created at the State level that can aid in accomplishing this goal. Almost all the States participating in the program already have passed legislation or established policies which require deinstitutionalization. Many excellent improvements have been made to the juvenile justice system as a result of Federal leadership. We now believe it is time for the Federal leadership to step aside and encourage State and local governments to fund successful programs.

The Public Safety Officers' Benefits Program pays an average of 250 claims each year. Appropriations for 1982 and 1983 were insufficient to pay this number of claims. OJARS made up the difference by using funds which had been reclaimed by closing out expired LEAA grants and contracts. Since the LEAA grants will be closed by fiscal year 1984, no reversionary funds will be available for this purpose. The requested increase of $1,700,000 should provide sufficient funds to pay all eligible claims in 1984.

Finally, this request includes an increase of $90,000,000 to initiate a program of State and local assistance. This program reflects the lessons learned from the LEAA experience. It focuses on Federal leadership, training and technical assistance as well as limited financial assistance to implement targeted programs of proven effectiveness. Only a modest investment of Federal funds is required. These funds will be used in effective ways as start-up costs for innovative, successful efforts that jurisdictions could not otherwise undertake. It bridges the work of research, by helping to transfer and install in practice new concepts and approaches that impact on violent crime. It focuses assistance on both adult and juvenile violent crime and violent offender concerns.

Eighty percent of the request or $72,000,000 would be used to establish a streamlined State formula grant program to support the replication by State and local governments of criminal justice programs that have proven to be effective in dealing with violent crime. The formula grant program would target scarce Federal dollars on high priority programs of proven effectiveness. Improvement programs that could be implemented would include Career Criminal, Sting, TASC, Victim & Witness assistance, PROMIS, ICAP, Arson and others. Funds would be allocated among the States on the basis of population. Recipients would have to provide a 50 percent match which would raise the available funds to $144,000,000. Localities would be assured of an equitable share of funds for local projects.

Of the request, $18,000,000 would fund a discretionary grant program. Under the discretionary grant program, financial assistance would be provided to States, units of local government, combinations of such units, and private nonprofit organizations for the purpose of (1) undertaking educational and training programs for criminal justice personnel; (2) providing technical assistance; (3) undertaking projects which are national or multi-State in scope; and (4) conducting demonstration programs which, in view of previous research or experience, are likely to be a success in more than one jurisdiction.

This concludes my statement, Mr. Chairman. I shall be happy to answer any questions you or the other members of the subcommittee may have.

BUDGET INCREASE

Mr. DIEGELMAN. As you recognize with the figures you have just read off, this represents a very significant increase in the OJARS area over this fiscal year. It is almost a 20-percent increase, as a matter of fact, due to a major initiative which I will explain very briefly in a moment. It is a part of the Department's $3.4 billion crime package, which I think represents a very orchestrated and balanced approach to the Nation's crime problem, addressing every level, every major law enforcement function in the Federal Government as well as the needs of State and local governments in the crime and justice areas.

PUBLIC SAFETY OFFICERS' BENEFITS PROGRAM

The major changes in the package include a $1.7 million increase for the Public Safety Officers' Benefits program, which is not a real increase from a programmatic point of view. We realize approximately 250 claims we honor each year under that program at $50,000 a claim. So it is really the amount of money needed to run the program is $12.5 million. For the last 2 years we have funded a significant portion of that money out of reverted LEAA dollars. So the $1.7 million increase really is simply because of the disappearance of the LEAA reverted dollars.

Senator LAXALT. That does not represent a real increase.

Mr. DIEGELMAN. No, sir, it does not. It does not represent an increase in the number of claims we are receiving or the number of public safety officers killed in the line of duty.

JUVENILE JUSTICE PROGRAM

Also included in the request is a very significant decrease of $67.6 million in the juvenile justice area. The administration is proposing once again, as it has in prior fiscal years, termination of the juvenile justice program.

Senator LAXALT. What is your feeling on juvenile justice?

Mr. DIEGELMAN. I think we have basically, after very close examination of the issue for the last 2 years, realized that the 1974 act, which articulated a policy goal of the deinstitutionalization of status offenders primarily as the major focus of the program, that this goal has been basically achieved. In 34 of the participating States there is full compliance and in 8 others there is substantial compliance, which is achieving 75 percent deinstitutionalization. All of the major States that have participated in the program have either adopted legislation or policy in that area. And 200,000 of the 235,000 institutionalized juveniles have been deinstitutionalized, with the expenditure of over $500 million in Federal funds.

We feel it is time to basically say that not only have we accomplished the major goal of the statute but also the States have institutionalized the process.

Senator LAXALT. I would like some detail on that. You are aware of the history as well as I am. It has been deleted and then restored back here. Both sides have applied artificial resuscitation to the program. It should be allowed to die I think just on its own.

Part of the fact might be that my colleagues here, and probably the same is true on the House side, just aren't aware of how successful the program is. There is justification for not retaining this level or any level of funds.

I would appreciate it, perhaps by individual State, if you could give us some more detail, and perhaps we can make a case for our colleagues and maybe the time has come this year to go ahead and defund this.

Mr. DIEGELMAN. Yes, sir.

Senator LAXALT. Will you do that?

Mr. DIEGELMAN. I will be glad to supply that for the record on a State-by-State program basis, not just on deinstitutionalization but also on the issue of separation.

[The information follows:]

Juvenile Justice Systemwide Improvements

The Juvenile Justice and Delinquency Prevention Act (JJDP) requires that 75 percent of all Formula Grant funds be used for "advanced techniques" and the legislation specifically defines ten such "techniques." This has provided a wealth of innovative programs aimed at accomplishing the goals of the Act. Many of these programs have proven to be effective and have helped to improve the juvenile justice system of the participating states. Proven effectiveness is demonstrated by the progress in compliance with the specific goals of the Act, namely, 223(a)(12), (13) and (14).

Summary of Participation in the JJDP Act and Compliance with Sections 223(a)(12) and (13)

The initial year states and territories could participate in the JJDP Act was 1975. During the initial year of participation, 45 of the 56 eligible states and territories received an award. Six states withdrew from participation prior to the 1976 awards. This made a total of 39 states and territories participating for the full fiscal year. During 1976, four additional states and territories began participation, thus making a total of 43 participating states.

Four more states began participation in 1977 which made a total of 47 states receiving an award. However, two states withdrew from participation prior to the 1978 award, thus making a total of 45 states and territories participating for the full 1977 fiscal year.

During 1978, another five states began participation. No state receiving a 1978 award withdrew from participation, thus a total of 50 states participated during the full 1978 fiscal year. In 1979, an additional territory became eligible for participation, thus raising the number of eligible states and territories to 57. During 1979, no state withdrew participation, but one additional began participation. This made a total of 51 states and territories participating during 1979. During 1981, one state renewed participation, one state began participation, and one state withdrew leaving 51 states and territories participating in the JJDP Act of 1974, as amended. During 1982 one state renewed participation making a total of 52 participating states and territories. The five states not participating in the Act are:

Nevada
North Carolina
Oklahoma
South Dakota
Wyoming

Section 223(a)(15) requires states to provide for an adequate system of monitoring jails, detention facilities, correctional facilities, and non-secure facilities to insure that the requirements of subparagraphs (12)(A), (13) and (14) are met, and for annual reporting of the results of such monitoring to the Administrator. December 31st of each year has been established as the date for submitting the annual monitoring report. According to the most recently submitted and reviewed State Monitoring Report, the following is a summary of compliance with Section 223(a)(12)(A) and (13).

Section 223(a)(12)(A)

A. Of the 52 participating states, 43 have participated for five or more years and are thus required to achieve full compliance with Section 223(a)(12)(A) of the Act to maintain eligibility for 1983 Formula Grant funds. Of the 43 states, a determination has been made that the following 34 states and territories are in full compliance pursuant to the policy and criteria for full compliance with de minimis exceptions:

American Samoa
Arkansas
California
Connecticut
Delaware
District of Columbia
Guam
Idaho
Indiana
Illinois
Iowa
Kentucky
Louisiana
Maine
Maryland
Massachusetts
Michigan
Minnesota
Missouri
New Hampshire
New Jersey
New York
Ohio
Oregon
Pennsylvania
Puerto Rico
Rhode Island
South Carolina
Texas
Trust Territories
Vermont
Virginia
Virgin Islands
Wisconsin

To date, nine of these 43 states have not been found to be in full compliance with the deinstitutionalization requirement. The nine states are:

Alaska
Arizona
Colorado
Florida
Georgia
Montana
New Mexico
Tennessee
Washington

B. Of the 52 participating states, eight must achieve substantial or better compliance to be eligible for 1983 formula funds and four of these states (designated with *) must achieve full compliance for 1984 formula fund eligibility.

*Alabama
*Hawaii
*Kansas
*Mississippi
North Carolina
Northern Marianas
Utah
West Virginia

All eight have demonstrated substantial or better compliance and the Northern Marianas has been found in full compliance.

C. One of the 52 participating states, Nebraska must demonstrate progress to maintain eligibility for 1983 funds and must achieve substantial or better compliance for 1986 formula fund eligibility.

Section 223(a)(13)

There are 29 states which have demonstrated compliance with Section 223(a)(13) of the Act. Twenty-two other states have reported progress while one reported no progress.

Those 29 states which have been found in compliance with the separation requirement are:

American Somoa
Arizona
Arkansas
Connecticut
Delaware
District of Columbia
Guam
Hawaii
Illinois
Maine
Maryland
Massachusetts
Michigan
Minnesota
Nebraska
New Hampshire
New Jersey
New York
North Carolina
Northern Marianas
Pennsylvania
Puerto Rico
Rhode Island
South Carolina
Texas
Vermont
Virginia
Virgin Islands
Wisconsin

The states reporting progress are:

Alabama
Alaska
California
Colorado
Florida
Georgia
Idaho
Indiana
Iowa
Kansas
Kentucky
Louisiana
Mississippi
Missouri
Montana
New Mexico
Ohio
Oregon
Trust Territories
Utah
Washington
West Virginia

The one state reporting no progress is Tennessee.

BUREAU OF JUSTICE STATISTICS

Mr. **Diegelman**. The other increase in the budget is a $1.7 million increase for the Bureau of Justice Statistics, which is requested so BJS can develop the transaction statistics data base of Federal offenders, prepare and disseminate major statistical reports on the Federal justice system, and conduct the quinquennial census of State correctional facilities and survey of prison inmates.

Senator **Laxalt**. How much of an overlap do you have between your statistics work and the FBI?

Mr. **Diegelman**. I have with me here today—I will introduce him at the conclusion of my statement—the new Director of the Bureau of Justice Statistics, who can perhaps answer that question for you.

OVERLAP OF RESPONSIBILITY

Senator **Laxalt**. It is no big concern, but staff has looked at all of this and feels that there may well be some overlap here. I don't know whether there is or isn't. I know my colleagues have asked me about that.

Mr. **Diegelman**. Can I defer the question to the new Director, Mr. Schlesinger.

Senator **Laxalt**. Delighted to have you here.

Mr. **Schlesinger**. Mr. Chairman, I am glad to be here.

Senator **Laxalt**. This has been raised before not only by staff but also by my colleagues Have we pretty much carved up the turf here so we have a minimum of overlap as between various agencies in terms of gathering statistics?

Mr. **Schlesinger**. I believe that there is very little, if any, overlap. The primary statistical effort of the FBI is, of course, the uniform crime reports. The major statistical effort on our part, our larger series, is the national crime survey, an annual survey of victimization and victims in the United States.

Senator **Laxalt**. None of that is treated on the FBI side of it?

Mr. **Schlesinger**. No; because the FBI statistics are reported to the FBI by police agencies across the country. Our survey, the national crime survey, is a survey by the Census Bureau of victims through interviews with them.

Senator **Laxalt**. So their focus is on offenders and yours is essentially on victims; is that the distinction?

Mr. **Schlesinger**. I would draw one other distinction, Mr. Chairman. The uniform crime reports deal with reported crime, whereas the major efforts in the national crime survey are to deal with what has been called the dark side of crime; that is to say, unreported crime. By asking questions directly of victims, we make an attempt to get at the dark side of the crime or whatever unreported crime exists.

As you know, over the years there has been quite a difference between the figures that exist as to reported crime and other figures having to do with unreported crime.

Let me add that the Bureau of Justice Statistics is cooperating very closely at the current time with the Federal Bureau of Investigation. We are in the process of leading an assessment of the uniform crime reports [UCR]. As a matter of fact, that assessment now is in the opening months of the first phase. In that first phase we are documenting both the history of UCR and the current practices within the UCR.

The second phase of the assessment will be a look at some alternative futures for UCR, examining various directions in which UCR could possibly go in the future.

Stage 3 will be an implementation of whatever future is chosen through development and selection of computer hardware and software.

Senator LAXALT. Thank you. That is very helpful.

Mr. SCHLESINGER. Thank you, Mr. Chairman.

Senator LAXALT. Please proceed.

PROPOSED STATE AND LOCAL ASSISTANCE PROGRAM

Mr. DIEGELMAN. The other major change is perhaps the most significant change, which is the $90 million change to initiate a State and local assistance program. This represents from our perspective a very careful review of the last 2 years of the lessons that have been learned in the LEAA experience, addressing the expressions of need we have heard from every public and governmental interest group about the need for funding of innovative projects or demonstration projects at the State and local level.

The new initiative is a very modest one in comparison to the funding that has been available in this area in the past. Of that $90 million, 80 percent of it would be distributed by block or formula grants to the States and localities. That $72 million is clearly targeted to some of the more successful programs that the LEAA used to fund, such as victim witness assistance, which is a major priority, arson, and others. The remaining $18 million would be available for national discretionary programs, for award to nonprofit organizations or State and local governments for national or multistate initiatives, for demonstration programs, technical assistance, training and for a new authorization, which we have not had in the past, which would be emergency assistance to States and localities for criminal justice emergencies that are beyond their own resources to absorb; for example, city riots, child murders, et cetera.

That is the extent of my summary statement. I would also like to introduce to you, since I don't think you have met him, the new Director of the National Institute of Justice, who was confirmed by the Senate last December. He is sitting directly behind me. That is Mr. James K. Stewart.

Senator LAXALT. Welcome.

Mr. STEWART. Thank you, sir.

EFFECTIVENESS OF STATE AND LOCAL ASSISTANCE

Senator LAXALT. On the State and local assistance, are we wasting this money or are we just giving some of my colleagues a political sop? Why can't we just put this in the framework of revenue-sharing and stop playing games with programs that you don't want allocated, you don't want to fool with, and probably have some very questionable value in terms of results?

Mr. DIEGELMAN. I think for the last 2½ years I had the unique experience of going through what I considered to be a very sincere and intensive soul-searching concerning the former LEAA program about what we learned and what we didn't learn about federal financial assistance in crime control. I think the types of criticisms that have been leveled at the program in the past were probably very valid. It was a blank check. It was to do everything.

This program is not a blank check. It is not a lot of money and it is not going to do everything. It is clearly targeted to those types of programs we know work.

Senator LAXALT. Explain something to me. You are talking about block grants and talking about targeting. Those to me are almost inconsistent.

Mr. DIEGELMAN. We are talking about within the block program of having some very specific purposes and only those purposes for which the block funds can be used.

Senator LAXALT. So to an extent I guess you have a mix between a block and categorical program.

Mr. DIEGELMAN. Yes, sir, what we are basically proposing is what we would call targeted block grants. We would say here are 10 allowed uses for these types of programs. You the Governor, you the mayor, can pick and choose which out of those 10 you would like to use the money for, but you can only spend it for those types of programs. You have to match it on a dollar-for-dollar basis, which is something the LEAA program never did.

ALLOCATION OF FUNDS UNDER PROPOSED PROGRAM

Senator LAXALT. That is true. How do you determine which Governor or which State receives this?

Mr. DIEGELMAN. We avoid that by coming up with a formula that distributes the money according to population, strictly population.

Senator LAXALT. Strictly population?

Mr. DIEGELMAN. Yes.

CONTROL OF FUNDS BY STATES UNDER PROPOSED PROGRAM

Senator LAXALT. Inside the State where does it go?

Mr. DIEGELMAN. Inside the State the Governor designates how he wants to administer it.

Senator LAXALT. So he has control of the money.

Mr. DIEGELMAN. Not complete control. I mean basically the Governor can designate the State agency he wants to administer it. The State agency has to allocate the funds within the limitation of the targets we have laid out and there is also a requirement for variable passthrough, which is very important.

Senator LAXALT. What does that mean?

Mr. DIEGELMAN. It basically means the local jurisdictions, if they contribute 60 to 75 percent of the total criminal justice expenditures in that State, the local jurisdictions have to receive that same share of the Federal money.

Senator LAXALT. That is specifically stated within the formula?

Mr. DIEGELMAN. Yes; that is a statutory requirement. It worked under the LEAA program. We think it will work under the new program. We haven't had a chance to try it yet. The tremendous difference is also the magnitude of funding. Many of the problems of redtape and bureaucracy—it came out in the LEAA program that we were paying $40 to $50 million a year to maintain a State and local bureaucracy of almost 5,000 employees—none of that is in this.

Senator **Laxalt**. That is more or less all gone.

Mr. **Diegelman**. Yes.

Senator **Laxalt**. As you may know, I went through the Federalism exercise last year. I thought all Governors wanted it and all mayors wanted it. I found, somewhat to my surprise, that a lot of mayors didn't want it. In fact, they phoned me and said, please, make sure the money doesn't go through the Governor's office. [Laughter.] But in this bill, when you talk about $90 million, and you are talking 50 States, what do you do, for example, with a State like New York? Are we doing anything that is worth doing in a State like New York? I don't know what their allocation would be. I suppose it is $5 million.

Mr. **Diegelman**. That is very close; New York is $4.7 million.

Senator **Laxalt**. What is that really in their total picture there, particularly when you are talking about cutting up the money between Governors' offices and the municipalities? What is $4.7 million in the total picture? Are we just wasting our time?

I guess my point is we better get into the thing. Let's do it halfway effectively or forget it. To me $90 million spread around this country doesn't mean much. Maybe it is not worth the effort.

Mr. **Diegelman**. A quick answer to that. First of all, New York is $4.7 million, which we have to double on the cash match. So you have $9.4 million, or approximately $10 million, for the program.

Second, the number of uses for which they can actually apply the funds is tremendously limited. They cannot engage in jail construction or prison construction as in the LEAA program. The average cost of almost any one of these programs, Neighborhood Watch, which generally runs from $10,000 to $15,000——

Senator **Laxalt**. They have been extremely effective, haven't they?

Mr. **Diegelman**. Extremely effective. We have found almost every jurisdiction has a 40- to 50-percent crime reduction.

What I am saying is that if you take $10 million, if you distribute it according to needs of the individual cities, of cities that have not tried Neighborhood Watch, you can probably run for that 25 to 30 projects throughout the States in various municipalities. These are ideas we know would work.

Senator **Laxalt**. With minimum administrative cost.

Mr. **Diegelman**. No administrative cost is paid by the Federal Government. The State and local governments would pick it up.

VALUE OF PROPOSED PROGRAM

Senator **Laxalt**. Within this framework, you are telling me, requiring the matching, using this formula, it has value.

Mr. **Diegelman**. I strongly believe that, or this administration surely would not be proposing it after the attitude we had toward the LEAA program in 1981.

SUBMITTED QUESTIONS

Senator **Laxalt**. That is helpful.

I guess that pretty much exhausts our various questions. We may have some written followups. Thank you for an interesting presentation.

Mr. DIEGELMAN. Thank you very much, Chairman Laxalt.

Senator LAXALT. Thank you all.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR LAXALT

JJDP Act Accomplishments

On page 2 of your justification you note that the major objectives of the Juvenile Justice Formula Grants and Juvenile Justice Programs have been attained. On pages 10-12 you list the accomplishments and workload of these programs. The following questions relate to these accomplishments.

On page 10 you state that participating states have undertaken a number of system-wide improvements. Specifically, what improvements have been undertaken, which states have undertaken these improvements, and what has actually been attained?

The Juvenile Justice and Delinquency Prevention (JJDP) Act requires that 75 percent of all Formula Grant funds be used for "advanced techniques" and the legislation specifically defines ten such "techniques." This has provided a wealth of innovative programs aimed at accomplishing the goals of the Act. Many of these programs have proven to be effective and have helped to improve the juvenile justice system of the participating states. Proven effectiveness is measured by progress in complying with the specific goals of the Act, namely, 223(a)(12), (13), and (14).

The first year that states and territories could participate in the JJDP Act was 1975. During the initial year of participation, 45 of the 56 eligible states and territories received an award. Six states withdrew from participation prior to the 1976 awards, making a total of 39 states and territories participating for the full fiscal year. During 1976, four additional states and territories began participation, thus making a total of 43 participating states.

Four more states began participation in 1977 which made a total of 47 states receiving an award. However, two states withdrew from participation prior to the 1978 award, thus making a total of 45 states and territories participating for the full 1977 fiscal year.

During 1978, another five states began participation. No state receiving a 1978 award withdrew from participation, thus a total of 50 states participated during the full 1978 fiscal year. In 1979, an additional territory became eligible for participation, thus raising the number of eligible states and territories to 57. During 1979, no state withdrew from participation, but one additional began participation. This made a total of 51 states and territories participating during 1979. During 1981, one state renewed participation, one state began participation, and one state withdrew leaving 51 states and territories participating in the JJDP Act of 1974, as amended. During 1982 one state renewed participation making a total of 52 participating states and territories. The five states not participating in the Act are: Nevada, North Dakota, Oklahoma, South Dakota and Wyoming.

Section 223(a)(15) requires states to provide for an adequate system of monitoring jails, detention facilities, correctional facilities, and non-secure facilities to ensure that the requirements of subparagraphs (12)(A), (13), and (14) are met, and for annual reporting of the results of such monitoring to the Administrator.

December 31 of each year has been established as the date for submitting the annual monitoring report. According to the most recently submitted and reviewed State Monitoring Report, the following is a summary of compliance with Section 223(a)(12)(A) and (13).

Of the 52 participating states, 43 have participated for five or more years and are thus required to achieve full compliance with Section 223(a)(12)(A) of the Act to maintain eligibility for 1983 formula grant funds. Of these 43 states, a determination has been made that the following 34 states and territories are in full compliance pursuant to the policy and criteria for full compliance with few minor exceptions.

American Samoa
Arkansas
California
Connecticut
Delaware
District of Columbia
Guam
Idaho
Indiana
Illinois
Iowa
Kentucky
Louisiana
Maine
Maryland
Massachusetts
Michigan
Minnesota
Missouri
New Hampshire
New Jersey
New York
Ohio
Oregon
Pennsylvania
Puerto Rico
Rhode Island
South Carolina
Texas
Trust Territories
Vermont
Virginia
Virgin Islands
Wisconsin

To date, nine of these 43 states have not been found to be in full compliance with the deinstitutionalization requirement. The nine states are:

Alaska
Arizona
Colorado
Florida
Georgia
Montana
New Mexico
Tennessee
Washington

Of the 52 participating states, eight must achieve substantial or better compliance to be eligible for 1983 formula funds and four of these states (designated with *) must achieve full compliance for 1984 formula funds eligibility.

*Alabama
*Hawaii
*Kansas
*Mississippi
North Carolina
Northern Marianas
Utah
West Virginia

All eight have demonstrated substantial or better compliance, and the Northern Marianas has been found in full compliance.

One of the 52 participating states, Nebraska, must demonstrate progress to maintain eligibility for 1983 funds and must achieve substantial or better compliance for 1986 formula fund eligibility.

There are 29 states which have demonstrated compliance with Section 223(a)(13) of the Act. Twenty-two other states have reported progress while one reported no progress.

Those 29 states which have been found in compliance with the separation requirement are:

American Samoa
Arizona
Arkansas
Connecticut
Delaware
District of Columbia
Guam
Hawaii
Illinois
Maine
Maryland
Massachusetts
Michigan
Minnesota
Nebraska
New Hampshire
New Jersey
New York
North Carolina
Northern Marianas
Pennsylvania
Puerto Rico
Rhode Island
South Carolina
Texas
Vermont
Virginia
Virgin Islands
Wisconsin

The states reporting progress are:

Alabama
Alaska
California
Colorado
Florida
Georgia
Idaho
Indiana
Iowa
Kansas
Kentucky
Louisiana
Mississippi
Missouri
Montana
New Mexico
Ohio
Oregon
Trust Territories
Utah
Washington
West Virginia

The one state reporting no progress is Tennessee.

You mention accomplishments related to the objective of deinstitutionalizing status offenders under Section 223 of the act. What has been accomplished for the other objectives under that Section, such as providing funds for advanced techniques in developing, maintaining, and expanding programs and services designed to prevent juvenile delinquency, to divert juveniles from the juvenile justice system, to provide community-based alternatives to confinement in secure facilities, to encourage a diversity of alternatives within the juvenile justice system, to establish and adopt juvenile justice standards, and to provide programs for juveniles who have committed serious crimes? Be specific about the accomplishments.

Section 223(a)(10) of the Act requires each state to allocate 75 percent of the formula grant action funds to advanced techniques. In implementing this provision, OJJDP requires each state to provide an assurance that it complies with Section 223(a)(10) (see CFR, 31.303(n)). This assurance, plus a review of each state's annual action plan, constitutes OJJDP's enforcement and monitoring of Section 223(a)(10); there is no requirement in the Act that OJJDP assess and specify the accomplishments of states under this provision. Lacking such a specific legislative requirement, OMB discourages federal agencies from burdening state and local governments with unnecessary reporting requirements. Thus, it is impossible on such short notice to provide the specificity requested.

OJJDP has nonetheless encouraged states participating in the Formula Grants Programs to implement the advanced techniques listed in Section 223(a)(10). The means of encouragement have been Office policy statements, regulations, technical assistance, research and demonstration, training and dissemination. Some specific examples of program areas which have been fostered through these vehicles and widely adopted by participating states are delinquency prevention, diversion, community-based alternatives, probation, restitution, alternative education, learning disabilities, standards, jail removal, serious offender, volunteer services, and advocacy.

The net results of the nationwide adoption of these programs are a dramatic decrease in the use of secure confinement for children accused or adjudicated for non-serious offenses, and a refocusing of programs toward the serious offender.

Programs funded under the Special Emphasis Division's section of the Act (Sec. 224) have also addressed the objectives mentioned, which are reiterated under Sec. 223, as follows:

A. Advanced techniques in developing, maintaining, and expanding programs and services designed to prevent juvenile delinquency: Programs in this category include: Prevention of Delinquency Through Alternative Education; Programs to Prevent Juvenile Delinquency; Delinquency Prevention Through Capacity Building; Youth Advocacy; Improving Availability and Quality of Youth Services; Violent Juvenile Offender, Part II. Information on specific accomplishments for each program can be provided upon request.

B. To divert juveniles from the juvenile justice system: Diversion of Youth from Official Juvenile Justice System Processing addressed diversion of juveniles from the juvenile justice system. Project New Pride, as well as Restitution by Juvenile Offenders, An Alternative to Incarceration, diverted youth from further system penetration. Further information on specific accomplishments can be provided upon request.

C. To provide community-based alternatives to confinement in secure facilities: Project New Pride provides a community-based alternative to confinement in secure facilities.

D. To encourage a diversity of alternatives within the juvenile justice system: Restitution by Juvenile Offenders, an Alternative to Incarceration; Diversion of Youth from Official Juvenile Justice System Processing; Project New Pride Replication, all provide alternatives to the juvenile justice system.

Programs for juveniles who have committed serious crimes: Violent Juvenile Offender, Part I, and Project New Pride Replication as well as Restitution by Juvenile Offenders, An Alternative to Incarceration, all deal with juveniles who have committed serious crimes.

Do all of the monitoring systems that have been established include recordkeeping and monitoring procedures for adult jails and lockups that may hold juveniles?

Section 223(a)(15) of the JJDP Act, as amended, requires states to provide for an adequate system of monitoring jails, detention facilities, correctional facilities and non-secure facilities to ensure that the Act requirements are met. The implementing regulations for this statutory requirement is contained in 28 CFR Part 31.303(i) which requires states to indicate how they will monitor all jails, lockup, and secure detention or correctional facilities and requires the states to report on the number of jails and lockups that hold juveniles. The procedure for monitoring varies from state to state but all states are required to monitor jails and report on the results of the monitoring effort.

What has been accomplished toward the objective of separating juvenile and adult offenders?

There are 29 states which have demonstrated compliance with Section 223(a)(13) of the Act. Twenty-two other states have reported progress while one reported no progress.

Accomplishments toward the objective of separating juvenile and adult offenders (Section 223(a)(13)) is addressed in our previous response "Summary of Participation in the JJDP Act and Compliance with Sections 223(a)(12)(13).

Maintenance of Juvenile Justice Programs with State Funding

On page 10 you note that further action will be undertaken to encourage state and local governments to provide adequate resources toward addressing problems of the juvenile justice system. Which agency will have this responsibility and how will this encouragement be accomplished if no new juvenile justice funds are provided?

Although the 1984 budget request does not contain program funds for the juvenile justice system, it does contain sufficient administrative funds to pay for 40 workyears. Program funds which were awarded in 1983 will still be active in 1984 and 1985. The juvenile justice personnel will use these two years to encourage state and local personnel to pick up the costs of successful programs.

Replication of Effective Programs

On page 11, you note a major objective of the juvenile justice program is to replicate, on a nationwide basis, programs and strategies which have been proven through research, demonstration, and evaluation to be effective. Which programs and strategies have been proven through research, demonstration, and evaluation to be effective? How many of these programs have been replicated?

Project New Pride, which provides specially designed, intensive and comprehensive community-based treatment for serious offenders, began in 1973 in Denver, Colorado. It was aimed at a population of serious juvenile offenders, adjudicated youth aged 14-17 under court supervision for a serious offense with at least two prior adjudications/convictions for serious misdemeanors or felonies. The success of this program resulted in a Special Emphasis Division program to replicate Project New Pride.

OJJDP funded ten grants at a cost of $8,696,272 for a two year period. After completion of the two years, three of the grants were terminated for management problems.

At present, the seven grants are terminating and four will be refunded to allow for further refinement of the model. There will be partial assumption of cost at the local level. For the three projects being terminated, one of the projects will continue with local funding of the New Pride model, and it is hoped that all three projects will be funded by local sources at the end of the fiscal year, in June.

A marketing plan is being developed to allow further replication.

Results to date, from an interim evaluation report, show that many of the New Pride clients, serious juvenile offenders who failed in traditional programs, made considerable progress after being enrolled in Project New Pride.

- Through September, 1982, 1,448 youngsters were referred to New Pride. There were 877 active clients and 238 youngsters who completed the twelve month program. (Many who did not complete the 12 months left under positive circumstances.)

- Two-thirds of the clients were school drop-outs; during enrollment in New Pride, the average percentage of unexcused school absences dropped more than one-third from 58 percent to 36 percent.

- Average pre-post testing gain in math was one year, with the average in reading approximately two years. These preliminary findings of gains in scores were highly significant statistically.

- The average monthly percentage of clients committing offenses dropped from 23 percent prior to admission to 9 percent after admission. The average number of offenses per month dropped from 91 prior to admission to 25 after admission. The average monthly percentage of clients committing offenses which were sustained dropped from 15 percent prior to New Pride to 4 percent after admission. The average number of offenses sustained per month dropped from 55 to 11 after New Pride admission.

Restitution by Juvenile Offenders, An Alternative to Incarceration, has also been proven to be an effective program. A marketing plan has been developed, and replications are planned.

Monetary, community service and victim restitution was performed under this program. Statistics to date, from an interim (two year) evaluation report show the following:

- 17,300 youth participating
- Over 18,390 victims and $9.5 million involved in offenses by these youth
- Judges have ordered:
  - $2.5 million in monetary payments
  - 355,000 hours of community service, and
  - more than 6,052 hours of direct services to victims.

Data from over 15,427 closed cases (89 percent of referrals) shows that juveniles involved in restitution programs have:

- paid $1,532,966 in monetary restitution
- worked 259,092 hours of community service, and
- performed more than 4,050 hours of direct victim service
- 77 percent of youth referred are successfully completing original or adjusted restitution orders. If project ineligibles are deleted, the successful completion rate is 86 percent.
- 83 percent of referrals do not have further contact with the juvenile court prior to case closure.

The average cost per child for Project New Pride is approximately $6,000 and the average cost per child for Restitution is approximately $1,000. Cost of incarceration averages $24,000-$43,000.

JJDP Evaluations

On page 11, you note that the National Institute of Juvenile Justice and Delinquency Prevention (NIJJDP) also evaluates the Office of Juvenile Justice and Delinquency Prevention's (OJJDP) discretionary programs. Which discretionary programs have been evaluated? What characteristics must a program have to be considered successful? Have the results of the evaluations been published and distributed to the public? If so, how many evaluations have been published relative to the number of programs which have been evaluated? Also, what are the evaluation results?

The NIJJDP has supported evaluation of all of the discretionary (special emphasis) programs funded by OJJDP. These include Deinstitutionalization of Status Offenders, Diversion, Prevention Through Youth-Serving Agencies, Restitution, New Pride Replication, Youth Advocacy, Alternative Education, Violent Juvenile Offender R&D Program and the Law-Related Education Program. Generally the evaluations are designed to assess the feasibility and effectiveness of a particular type of program or process for handling juvenile offenders.

A program is considered to be successful if the major components are implemented as designed. If a program is successfully implemented, the evaluation can determine whether it is effective in meeting intermediate objectives, and the ultimate goal of preventing or controlling juvenile crime. For example, the interim objective of a restitution program would be repayment of victims by juvenile offenders. Requiring juvenile offenders to make restitution is expected to make them less likely to commit additional crimes.

The results of these evaluations are disseminated through the juvenile justice clearinghouse. The interim or final results of each evaluation are summarized in OJJDP annual reports. The final executive summaries of Deinstitutionalization of Status Offenders and the Diversion Evaluations have been published and a summary of the first two years of the Restitution program will be published by June 1983. The final reports of these evaluations and the final report of the Prevention Through Youth Serving Agencies Program are available on a loan basis through the Juvenile Justice Clearinghouse. The evaluations of the following programs have not been completed: New Pride Replication, Youth Advocacy, Alternative Education, Violent Juvenile Offender R&D and the Law-Related Education Program.

National Evaluation of the Deinstitutionalization of Status Offenders Program (DSO)

Description - In 1976, OJJDP funded 13 DSO projects which had as their major objective deinstitutionalization of status offenders, primarily through creation of alternatives to detention and precluding the placement of status offenders in correctional institutions (training schools). NIJJDP funded a national evaluation program of the overall program and independent evaluations of eight of the thriteen OJJDP projects.

Results - Significant findings from the national evaluation include the following: (1) Community-based services can be provided for status offenders at about 20 percent less than the cost of juvenile justice system processing. (2) A somewhat unexpected finding was that home placement was feasible in a high proportion of all status offender cases. Fewer than 10 percent of status offenders served through the DSO project were deemed in need of any kind of alternative residential placement. (3) Foster homes were used frequently as residential alternative to detention. These placements worked best in case of younger children who were principally neglected and dependent, but were classified as status offenders for purposes of case dispositions. (4) The most promising alternative to detention program (for those youth requiring alternative placements - primarily chronic or status offenders) was the short-term shelter-care home. (5) All of the DSO projects succeeded in removing or diverting status offenders from secure detention and incarceration. (6) Overall, use of community-based alternatives for status offenders did not result in an increase in their recidivism - a finding which, taken together with the reduced cost of alternative placement, makes the use of secure confinement of status offenders of dubious value.

National Evaluation of Diversion Projects

Description - This project involves completion of a national evaluation of OJJDP's discretionary program to divert youth from the juvenile justice system. The evaluation is designed to produce information on the effectiveness of diversion for service providers, juvenile justice personnel and OJJDP audiences. This evaluation was also designed to test "labeling theory." Labeling theory is based, in part, on the assumption that the process of labeling youth as "delinquent" or "bad" sets into motion a self-fulfilling prophecy that results in subsequent delinquency (or inappropriate behavior). Specifically, the evaluation has addressed the following issues:

- Are diverted youth less stigmatized and do they engage in less delinquency than youth penetrating the justice system?
- How do youth diverted with services compare to those diverted with no services in terms of negative labeling, social adjustment and delinquency?
- Are positive impacts on youth associated with effective efforts to build cooperation between youth service providers and juvenile justice agencies?
- What kinds of diversion practices foster negative labeling in the sense that youth perceive themselves as sick or bad; and, on the other hand, what practices foster positive youth attitudes?

Results - The evaluation shows that diversion with or without services is about as effective as the justice system for the handling of juvenile offenders. This holds for the effects of labeling, for social adjustment, and for recidivism of the offenders. The evaluation did not conclusively establish the greater cost effectiveness of diversion, although it is clear the diversion without services is less costly than service provision within or outside the justice system. The evaluation does suggest that diversion may "widen the net" by exposing some juveniles to agency intervention who would be released without any agency or system restraints in the absence of diversion programs. Further, it did not appear that the effects of diversion as compared to system processing varied for different types of juveniles.

The National Evaluation of OJJDP's Prevention Through Youth-Serving Agencies

Description - The evaluation was designed to develop information concerning the most effective delinquency prevention strategies. It was also aimed at determining the most efficient methods for developing and expanding youth service delivery systems. Both a process and an impact component were included in the evaluation design. The study of project implementation processes was organized around five elements of program development adopted from the conceptual framework of the national assessment of delinquency prevention (described above): context, identification (of the target population), intervention, goals, and linkages (with other agencies and organizations). It involved an examination of how projects change along these five dimensions and a comparison across projects within each dimension.

Results - The final results indicate that private youth-serving agencies are more likely to develop direct service strategies rather than community development or institutional change approaches. Client selection procedures were not well-defined. Therefore, some of the projects did not reach a high risk population. It appears that it is also difficult for these agencies to establish collaborative ties with other private and public youth-serving agencies.

National Evaluation of Juvenile Restitition Projects

Description - The major objectives of this evaluation are: to develop information on the types of restitution programs that are most likely to: reduce juvenile recidivism; increase victim satisfaction and/or have the greatest impact on members of the community in terms of their views of operations of the juvenile justice system; to develop information on the comparative cost-effectiveness of different types of restitution programs for achieving each of the above alternative goals; and to develop descriptive and analytical information on implementation processes and problems, and on changes in program operating procedures during the first year of operation. The national evaluation has developed an evaluation design including process and impact components. An experimental design has been implemented at 6 of the 44 projects.

Results - The preliminary results based on the first two years of the program are:

- There were 17,354 referrals at the 85 project sites.
- Based on data from 15,427 closed cases, juveniles placed in restitution projects have paid $1,532,996 in monetary restitution, worked 259,092 hours of community service, and performed more than 4,050 hours of direct victim services.
- The types of offenses for which restitution was ordered were relatively constant over two years; property offenses represented 86 percent of the total, personal offenses 10 percent, and other minor and victimless offenses 4 percent.
- 76.5 percent of the cases were closed in full compliance with the original or adjusted restitution requirements.
- 83 percent (14,882) of closed cases have had no subsequent contacts with the court for noncompliance with the restitution requirements or another offense.

National Evaluation of the OJJDP Project New Pride Replication Program

Description - The evaluation is designed to: (1) develop information regarding client and service issues which can be used to refine the New Pride model, and (2) determine under what conditions the program can be implemented in different types of jurisdictions. Each project is required to provide staff resources to develop a self-study approach to program management per the program guidelines. The major tasks of the national evaluation are to assist all of the replication projects to develop the self-evaluation component designed to develop information on clients and services, to determine what types of services appear to be most effective for what types of youth and under what conditions, and to determine the impact of the projects on recidivism rates and other indicators of individuals' adjustment.

Results - Preliminary findings indicate that New Pride is serving serious multiple juvenile offenders. The average New Pride client has 7.8 prior offenses, 4.6 of them sustained by the time he is admitted to the program. The average monthly percentage of clients committing offenses dropped 2.5 times after admission to New Pride, and the average number of offenses per month dropped 3.7 times. For counts sustained, these decreases were 3.3 times and 5 times, respectively. As is commonly found in delinquency studies, the number of prior offenses was highly related to recidivism subsequent to entry into the program. There were 522 clients admitted to the program by June 30, 1981. Of these, 214 (or 41 percent) had found jobs since coming to New Pride. The average of unexcused absences from school dropped by more than a third from 58 percent before the program to 36 percent during the program. The academic achievement tests scores for project clients also increased.

Evaluation of OJJDP Special Emphasis Youth Advocacy Program

Description - The OJJDP Youth Advocacy program seeks to improve and increase services for delinquent youth by juvenile justice, educational and social service agencies through appropriate change of these systems. The evaluation will collect and analyze data pertaining to the operations and results of 22 diverse action projects. It will attempt to identify a range of successful youth advocacy strategies that warrant replication in particular settings and will provide cost/benefit effectiveness data regarding different youth advocacy approaches. Research pertaining to delinquency prevention, justice system improvement and delinquency control at the community level suggest that advocacy approaches may be significant vehicles for major accomplishments in these areas, and at less cost than direct support of youth service agencies. The evaluation will produce a model of advocacy to assist policy-makers interested in advocacy processes, as well as practitioners who plan and implement advocacy efforts. A fourth-year evaluation effort is planned.

Results - Most of the youth advocacy projects have mustered a broad base of support among personnel at policymaking levels in the relevant bureaucracies or legislative committees and among other local advocacy or service organizations. Their tactics include litigation, statute revision, administrative negotiations, monitoring and inspecting for compliance, and case advocacy in conjunction with the direct tactics of education, coalition-building, and research. The projects have influenced 10 types of results for the juvenile justice, social service, and education systems. These include changes in policies, practices, and procedures (22 projects), the passage of legislation (16 projects), the reallocation of existing resources for youth services (13 projects), the establishment of mechanisms to ensure the accountability of youth-serving agencies to the public (11 projects), strengthened management capability of youth-serving agencies or bureaucracies (8 projects); increased community capability for resolving youth problems (20 projects), and increased youth involvement in policymaking (16 projects).

National Evaluation of OJJDP Special Emphasis Program for Delinquency Prevention Through Alternative Education

Description - The major objective of this program is to prevent delinquency through the development of alternative education options for youth whose educational and social development needs are not being met in traditional classroom settings in targeted jurisdictions where there is a disproportionately high rate of dropouts, suspensions, and expulsions. The evaluation will assess both the process and impact of the program. The process evaluation will be guided by the program development evaluation model. This model encourages projects to take an active role in: identifying problems to be addressed; clarifying the theoretical basis of their approach; establishing goals, objectives and interventions; specifying appropriate measures of impact; and planning for data collection activity. Outcome measures will be developed to determine program/project intervention effects on target communities and relevant community youth service systems, school or school districts, and on program participants. At the participant level, changes in educational adjustment and achievement, preparation for the world of work, and delinquency involvement will be determined.

Results - The preliminary results from the first year indicate:

- Attendance improved in 29 out of 56 schools
- Suspensions went down in 21 out of 56 schools
- Student victimization went down in 25 out of 45 schools
- Teacher victimization went down in 28 out of 44 schools

Evaluation of the Violent Juvenile Offender Research and Development Program

Description - This is a two part program developed to study intervention and prevention models for controlling the violent juvenile offender. The goals for program Part I, intervention are: to test an intervention model for the treatment and reintegration of violent juvenile offenders that is designed to reduce violent crimes committed by youths in the program; to assess strategies for increasing the capacity of the juvenile justice system to handle violent juvenile offenders fairly, efficiently, and effectively; and to build knowledge about violent juvenile crime and violent youth to aid in the design of future programs aimed at reducing violent juvenile crime. Goals for Part II, prevention are: to test a set of theoretically-based intervention strategies aimed at preventing violent juvenile delinquency at the neighborhood level; to test the capability of the neighborhood-based organizations to mobilize neighborhood residents for the purpose of influencing the responses of primary socializing institutions towards violence and potentially violent youth; and to increase knowledge of factors associated with violent juvenile crime to aid in program and policy planning.

Results - As of December 1982, 54 youths were randomly assigned to the Part I (correctional) program. Over half of the project youth were charged with aggravated assault, and 44 percent were charged with armed robbery. One project youth has been adjudicated for a new offense. The Part II (prevention) projects have not begun operations.

Evaluation of Law-Related Education Programs (LRE)

Description - The overall objective of phase I of the LRE program is to promote awareness among educators and their communities. The evaluation will assess the overall program as well as the specific objectives of each of the six organizations funded under phase I of the LRE program. The evaluation is designed to evaluate how well the six OJJDP/NIJJDP projects are achieving the objectives specified in their individual program proposals, and provide assistance and recommendations based on these evaluations for improving and expanding the LRE program during phase II. The evaluation will include process and impact components. The process evaluation will involve documenting and analyzing the planning, implementation and communication mechanisms of the LRE projects. The impact component will focus on determining the impact of both the overall LRE program and individual projects on the educational system, the juvenile justice system and other community agencies. It will also include a cost analysis of alternative delivery systems. Information will be gathered by conducting interviews and surveys, collecting and analyzing relevant documents, and making on-site observations.

Results - The preliminary results indicate that LRE can decrease acceptance of violence and association with non-law abiding peers. It can also improve the bonds of youth to parents and teachers. Based on other research, these factors appear to prevent or reduce delinquency.

Standards for Juvenile Justice Programs

On page 11, you note that specific performance standards are set for delivery of services under the Special Emphasis program. In a report on the Special Emphasis Program issued on April 16, 1982, the GAO identified weaknesses in OJJDP's monitoring of its Special Emphasis initiatives. OJJDP acknowledged the problems existed but attributed the cause to the lack of travel funds. What has OJJDP done to improve their monitoring and ensure that standards are achieved?

The Special Emphasis Division has requested travel funds in an amount sufficient to support at least one on-site monitoring visit to each project per calendar year. Additionally, most projects are monitored off-site in cluster conferences once or more each year. All projects are monitored at least once a quarter by telephone.

On page 11 you note that a major objective of the Juvenile Justice Programs is to develop standards for the operation of juvenile justice and alternative systems. What has been done concerning the adoption and implementation of such standards?

A. Standards Development. One of the explicit purposes of the 1974 Juvenile Justice and Delinquency Prevention Act, as amended, is "to develop and encourage the implementation of national standards for the administration of juvenile justice, including recommendations for administrative, budgetary and legislative action at the federal, state and local level to facilitate the adoption of such standards" (Section 102(a)(5). Over the last decade the Office of Juvenile Justice and Delinquency Prevention and its parent agency have invested several million dollars in the development of standards for the administration of juvenile justice by various professional organizations and prominent national advisory committees.

Since the completion of the standards development work, NIJJDP has concentrated primarily on supporting the development and review of juvenile justice standards by national organizations concerned with improving the juvenile justice system. The standards resulting from various efforts have generated considerable interest and an intensive debate over the future direction of the juvenile justice system in the United States. The major juvenile justice standards development efforts include those of the National Advisory Committee for Juvenile Justice and Delinquency Prevention (NAC), the National Advisory Committee on Criminal Justice Standards and Goals Task Force on Juvenile Justice and Delinquency Prevention (Task Force), the Institute of Judicial Administration/American Bar Association Joint Commission on Standards, the American Correctional Association/Commission on Accreditation for Corrections, the American Medical Association Program To Improve Medical Care and Health Services in Correctional Institutions, and the National Council on Juvenile and Family Court Judges.

B. Dissemination of Standards. By the end of 1982, over 9,000 copies of the NAC Standards for the Administration of Juvenile Justice were distributed through the Juvenile Justice Clearinghouse to juvenile justice practitioners, libraries, legislators, and other policymakers. Other forms of standards dissemination undertaken during 1982 included development of materials to help guide the review of national standards, along with several announcements of the availability of standards-related materials, a series of symposia on the uses of standards which was held for the New England States, and a project to develop model policies and procedures for juvenile detention centers based on relevant national justice standards.

COMPARATIVE ANALYSIS OF JUVENILE JUSTICE STANDARDS AND THE JJDP ACT--In 1982, three of the four volumes of A Comparative Analysis of Juvenile Justice Standards and the JJDP Act were published and disseminated (under 79-13, 77-9, and 77-8). These documents are intended to clarify the various positions adopted by the major standards development efforts vis-a-vis the major policy thrusts of the Juvenile Justice and Delinquency Prevention Act. These are the first documents to analyze the degree of convergence and divergence among the various standards with respect to legislatively mandated policies and purposes contained in the JJDP Act. The NAC Standards served as the benchmark against which other standards were compared. Specific, relevant standards provisions from all national sets of standards are contained in these documents. Comparative Analysis is intended to serve as a concise reference for those interested in examining the positions of major sets of standards on the following issues: Delinquency Prevention and Diversion (Vol. I); Deinstitutionalization of Status Offenders and Separation of Juveniles from Adult Criminals (Vol. II); Reducing Secure Detention and Commitments and Encouraging the Use of Community-based Alternatives (Vol. III); and Advocacy for Services and Due Process/Procedural Safeguards (Vol. IV). Volume IV will be available in early 1983.

NEW ENGLAND SYMPOSIA ON THE USE OF STANDARDS—Between September and December 1981, three separate symposia were convened in New England for approximately 90 judges, program administrators, and legislators. Each symposium focused on the legislative, judicial, and administrative uses of national juvenile justice standards. Information was presented on the history of the development of the four sets of standards, their philosophy, and potential strategies for implementation. All of the standards were presented as resources or tools to address specific problems or needs of a given jurisdiction, agency, or court. Participants were encouraged to use the standards as guides for drafting state juvenile code revisions, agency policies and procedures, court rules, and for incorporation into judicial orders. The symposium participants rated the sessions as very informative and useful in their particular areas of responsibilities. Recommendations were made to increase such efforts to disseminate information on the standards in more depth through training and technical assistance within the states, and to expand the symposia to other regions.

STANDARDS TRAINING PROJECT—In 1982 NIJJDP entered into a cooperative agreement with the Commission on Accreditation for Corrections to offer a series of ten training seminars for administrators of juvenile correctional agencies and programs to be held across the country. The training format and agenda will be similar to the New England Symposia and will be designed to identify agencies interested in follow-up technical assistance in planning and implementing standards through available OJJDP resources.

C. Standards Implementation. In June 1982, NIJDDP issued a solicitation for a National Juvenile Justice Standards Resource and Demonstration Program to encourage the adoption of nationally developed standards for the administration of juvenile justice. Through cooperative efforts with selected state and local jurisdictions and national public and private organizations, NIJJDP hoped to demonstrate the utility of national juvenile justice standards as effective tools for generating and maintaining improvements in the administration of juvenile justice, consistent with the mandates and policies of the JJDP Act. A corollary goal was to promote national awareness of the utility of standards through the development of resources to respond to the information, training, and technical assistance needs of selected sites and other jurisdictions interested in adopting national juvenile justice standards.

However, based on the advice of the recently appointed National Advisory Committee for Juvenile Justice, the solicitation was temporarily cancelled in June 1982, and after further consideration in September 1982, the Office was advised to focus its efforts on the information collection and dissemination of juvenile justice standards rather than on funding any major implementation initiatives.

In 1982 the Acting Administrator sent a letter to all of the State Criminal Justice Councils notifying them that formula grant funds could be used for participation in the Commission of Accreditation for Corrections accreditation process.

During 1983 NIJDDP entered into a cooperative agreement with the American Correctional Association to provide technical assistance to the juvenile correctional field. The award supports two interrelated projects: (1) the development of a resource manual to assist juvenile detention center administrators in developing written policies and procedures based in part on national juvenile justice standards, and (2) the provision of technical assistance to juvenile corrections agencies interested in the adoption of standards and the development of policies and procedures to improve their programs. Technical assistance will be provided on an as needed basis.

Assumption of Funding for Juvenile Justice Projects

On page 12, you note that 41 restitution projects were funded in 26 states, Puerto Rico and Washington, D.C. with most projects currently in the process of being closed. How many of the projects being closed will remain in operation without federal funding?

Five projects of the original forty-one were terminated. One project dropped out voluntarily since the judge felt he was prevented by state statutes from complying with the program's requirements. The other four projects had an insufficient number of suitable clients and/or had internal management problems and reorganizations resulting in slowdown or suspension of restitution activities.

Twenty-four of the thirty-six projects receiving third year funding will continue, per a survey six months ago.

On page 12 you note that the assumption rate for Law Enforcement Assistance Administration and Crime Control Act projects has been about 65 percent. What has been the assumption rate for juvenile justice projects?

Both the Diversion and Deinstitutionalization of Status Offender programs saw some assumption of projects; however, specifics are not available at present. For Project New Pride, four of the remaining seven grants are receiving some continuation funding with partial assumption of costs at the local level. Three projects are being terminated. One of the three projects will continue a component of the New Pride model with local funding, and all three projects hope to be funded by local funding sources at the end of the fiscal year, in June.

Three other programs are currently operating (Prevention of Delinquency through Alternative Education; the Delinquency Prevention through Capacity Building Programs and Youth Advocacy; Improving Availability and Quality of Youth Services), and the Violent Juvenile Offender Program, Parts I and II, has just become operational.

As far as other programs are concerned, previous grantees would have to be polled to determine assumption rate. Time does not permit this to be done.

If the juvenile justice program is not funded, will any of its functions be taken over by the National Institute of Justice or other Department of Justice organizations?

Title VIII of the Comprehensive Crime Control Act of 1983 will reauthorize the National Institute of Justice, the Bureau of Justice Statistics and a new program of state and local assistance. The authorization for these programs will permit them to continue some of the activities now performed by the Office of Juvenile Justice and Delinquency Prevention.

Research and Statistics

On page 15, you noted that the National Institute of Justice field tests and evaluates selected model programs in several sites. Which programs were selected for models? Was the selection based on final published evaluations?

The programs currently being tested and evaluated by the National Institute of Justice includes:

- Differential Police Response to Calls for Service
- Early Representation by Defense Counsel
- Supervised Pretrial Release
- Structured Plea Negotiation
- Commerical Security
- Employment Services for Ex-Offenders

Programs selected for testing are not chosen solely on the basis of final published evaluations, but are developed as innovative approaches which, based on research findings, offer a high probability of improving criminal justice operations. Once these approaches are selected for testing they are simultaneously evaluated. If strong evaluation results were already available for a proposed program, a test would, of course, be unnecessary.

The results of individual studies are rarely sufficient to warrant major changes in practice. Research by its nature is cumulative, with many studies providing increments of knowledge. As accumulated research and evaluation findings in a particular area suggest the benefits of changes in practice, the National Institute of Justice synthesizes those findings and develops a model program which can be tested and rigorously evaluated.

For example, one such topic which is currently being tested concerns police response to calls for service. This test was undertaken in response to the ever increasing strains placed on police resources. As police budgets and staffing were being reduced in many jurisdictions, the demand for police service was escalating. The differential police response field test seeks to help police departments focus their limited resources on the most serious crimes and handle other police matters in a more cost-effective way.

Toward that goal, the National Institute assembled a group of criminal justice specialists to assess what had been learned from policy demand/response research conducted throughout the country. They then developed a model response system based on a complaint-taker who would answer all citizen calls, classify them as critical or non-critical, and transfer the critical calls to a dispatcher for an immediate response by a patrol car. The non-critical calls would be handled experimentally according to the relative urgency of the call. For major property losses discovered after the fact a patrol car would be dispatched usually within a half hour. Minor property losses would typically be handled simply by taking a complaint over the phone. Minor non-crime cases would be referred to the more appropriate agency, i.e., fire department, social service agency.

Once this program of differential police response had been fully developed, three cities were selected to implement the program so it could be tested and evaluated. Toledo, Ohio; Greensboro, North Carolina; and Garden Grove, California are each employing both the traditional and experimental response strategies and are being evaluated by an independent team of researchers supported by the National Institute of Justice.

If the concept works as expected, the results will be disseminated to police departments nationwide through published documents, conferences, seminars and training programs.

Memorandum of Understanding Regarding Research Responsibility

On page 17, you identified several studies in the corrections area which were funded by the National Institute of Justice. Why are these studies being funded by the National Institute of Justice and not the National Institute of Corrections?

While the National Institute of Justice and the National Institute of Corrections both are provided with statutory authority to conduct research on corrections issues, there are basic differences in the types of research they support and the purposes for which projects are undertaken. A memorandum of understanding was signed by both Institutes in February, 1978. It identifies their respective areas of emphasis and provides a mechanism for avoiding wasteful duplication of effort. In brief, the memorandum acknowledges that the National Institute of Justice's correctional research program will focus on system-wide correctional issues with implications for long-range impact. The research supported by the National Insitute of Corrections, on the other hand, is designed to improve and upgrade the administration of corrections and have an immediate or short-range impact on the problems of operational agencies.

The studies described in the budget request for the National Institute of Justice were initiated in accordance with the terms of the memorandum of understanding and after consultation with the National Institute of Corrections. Specifically, the survey of American prisons and jails was undertaken in response to a direct legislative mandate contained in Section 402(c) of the Crime Control Act of 1976. That survey contains extensive national data on correctional populations and was the first and most complete study of its kind. The four jail studies mentioned were initiated in response to the dearth of information identified by the survey of prisons and jails, and are being conducted in close cooperation with the NIC. The completed study on the effects of prison crowding was considered to be particularly appropriate for the National Institute of Justice because of its long term implications for prison design and construction and the court suits over the appropriate standards for space per inmate.

The National Institute of Justice continues to consult with the National Institute of Corrections at each stage in the development of its corrections research program, and in the implementation of research projects and disseminations of research findings.

Bureau of Justice Statistics Mandate

On page 20, you note that the Justice System Improvement Act of 1979 established a new mandate for the Bureau of Justice Statistics in the area of federal statistics. Specifically, you state the focus of this effort is the development of interagency procedures which will provide for the collection, collation, and analysis of federal criminal transaction data. Does this effort also focus on identifying duplicative federal data gathering efforts? Does this effort also involve testing the accuracy of data being gathered by federal justice agencies?

The major objective of the BJS Federal Statistics program is the development of a comprehensive data base linking data collected by each of the components of the federal criminal justice system. Data have now been acquired from the FBI, Executive Office of U.S. Attorneys, Administrative Office of the U.S. Courts, Bureau of Prisons and Pre-Trial Services Administration.

Development of the single Federal Statistics data base requires that data elements, identifiers and frames used in each separate data base be compared and analyzed. A major product to be issued under the Federal Statistics program, therefore, is a Technical Report which will discuss the coordination of existing data resources. The Report will also include recommendations for procedural modifications to eliminate information disparities and/or duplications, and to increase the uniformity of statistical classifications in order to facilitate the evaluation of data quality and utility.

State Support of Statistical Systems

On page 21, you note that the number of state statistical projects supported by the Bureau of Justice Statistics (BJS) increased from

35 to 70 between 1981 and 1982. Is the BJS making any effort to have the states support their own statistical projects?

The increase in the number of state-level statistical projects that are supported by BJS reflects funding of more projects at a lower cost per project, as the states assume more financial responsibility and as major programs such as the Comprehensive Data Systems Program are phased out. Also, this increase reflects a number of small grants given to selected states for interim funding of state-level Uniform Crime Reporting and for improved collection of correctional data for national reporting.

BJS has taken several actions to encourage states to support their own statistical projects. Awards for new Statistical Analysis Centers (SACs), for example, are for one year. Only if an Analysis Center has made adequate strides during the first year is it eligible for two additional years of funding. Funding by the state must begin no later than the fourth year of operation. A SAC must be authorized by state legislation or executive order; moreover, the state must be prepared to assume financial support when federal funding ends. In a few instances, BJS will provide emergency interim funding if there is a gap between the expiration of the last grant and the availability of funds from the state legislature. Additionally, the Director of BJS has contacted Governors and other state officials to encourage state funding of SACs.

Statistical Analysis Centers are a principal source of BJS statistical and Uniform Crime Reporting (UCR) data. As such, they have a dual workload in providing data for national series as well as meeting state needs. In order to share this burden and to establish the SAC as a state agency supported by state funding, BJS does provide small amounts of funding for federally-oriented functions. In this way, scarce state resources can be used to fund a SAC to meet state requirements while federal tasks are paid for with federal funds. This partnership encourages states to support their SAC knowing that, if additional data or analyses are required for national reporting, they will be supported by federal funds.

State Court Statistics Project

On page 22, you note continued support for the State Court Statistics Project. How much funding has the State Court Statistics Project received? What is the Annual Report of State Court Statistics? Does this report contain data from all states and all courts? Who uses this report? When was the last annual report published and how current is the data contained in that report? Will the states assume the costs of producing future annual reports?

To date, the Bureau has allocated $1,875,951 to the National Court Statistics Project.

The State Court Caseload Annual Report series is a set of documents containing statistical caseload data compiled from the annual reports of each state court system and from other available published and unpublished materials. The Annual Reports include data on case-flow, workload, disposition type breakdowns, time interval data, court organization, and other related data on trial and appellate courts.

The data contained in the report are from the fifty states, Guam and Puerto Rico. Not all courts in all states are represented. However, data are generally provided for virtually all cases in general jurisdiction courts, between 70 percent and 80 percent of cases filed in limited jurisdiction courts, and cases on the appellate level.

The products of this effort are used by administrative offices in the states for improving and enhancing statistical reporting capabilities by Chief Justices of the states to assess their state court system's status and capabilities as related to other states; by the Bureau of Justice Statistics and other researchers to review trends in court workload and to forecast future workloads and the impact of system and procedural changes on court activity; and by the general public as court watchers interested in assessing court performance as it relates to the workload statistics and organizational structures described in project publications.

The last annual report, State Court Caseload Statistics Annual Report, 1977, was published in the fall of 1982. The data contained in the report, for the most part, covers the 1977 calendar year, or fiscal years 1976-1977.

The states are not expected to assume the costs of producing this report in the future. The primary report is of a national scope and interest. The states produce individual annual reports for their own use and these reports are then compiled into a national report on state caseloads.

Measurement of Successful Projects

On page 26, you list several programs as having demonstrated their value, cost-effectiveness, and adoptability. How were these programs evaluated and how will other programs be evaluated to prove their effectiveness in these attributes? Are these the only three characteristics a program must have to be considered successful?

The determination that the listed programs are successful was reached either (1) through formal, highly structured evaluation procedures employed by the National Institute of Justice, or (2) on the basis of empirical evidence developed by demonstrtion projects in several jurisdictions. Examples of the latter are "Sting" projects which were successfully conducted in more than 47 cities; career criminal projects in 50 localities; and victim/witness assistance projects in 45 communities.

Additional programs will be added to the list of successful activities in much the same manner; through NIJ evaluation, by monitoring data produced by demonstration projects, and on the basis of results reported by state or local criminal justice agencies concerning innovative projects developed independent of federal participation.

Although successful programs may have additional desirable characteristics, all must have at minimum the attributes of producing the desired results at a cost commensurate with the objective, and must have the potential for replication in a significant number of jurisdictions.

QUESTIONS SUBMITTED BY SENATOR SPECTER

The Juvenile Justice Act was enacted to accomplish a number of goals in the juvenile justice area, for example, the deinstitutionalization of status offenders. How successful have you been in achieving these goals?

Below is a summary of state and territory compliance with the deinstitutionalization and separation requirements of the JJDP Act (as of December 2, 1982). A more detailed listing is provided in a previous answer concerning the Juvenile Justice Formula Grants and Juvenile Justice Programs.

Deinstitutionalization. Thirty-four of the 43 states and territories required to achieve full compliance have done so. Nine have not. An additional eight states or territories required to demonstrate substantial or better compliance have done so.

Separation. Twenty-nine states or territories have demonstrated compliance. Twenty-two others have reported progress while one reported no progress.

Removal. The first monitoring reports from the states and territories were due in December, 1982. The results of analyses of these reports have not been received.

Reliable, current national estimates of the number of juveniles in adult jails and lockups are not available. Previous estimates have varied. For example, the OJJDP Cost Removal Study found that on any given day during the period January-June of 1981 there were 1,778 juveniles detained in jails and lockups. A one-day count taken by the U.S. Bureau of the Census in February, 1978 showed that 4,920 persons under 18 were held in jails alone.

What funds are available for delinquency prevention activities in the Administration's Justice Assistance Proposal?

Under the formula grant program, states may select juvenile programs such as Project New Pride and restitution.

SUBCOMMITTEE RECESS

The subcommittee will now recess until tomorrow, Thursday, March 24, when we will examine the requests of the U.S. Information Agency, the Legal Services Corporation, and the Equal Employment Opportunity Commission.

[Whereupon, at 11:35 a.m., Wednesday, March 23, the subcommittee was recessed, to reconvene Thursday, March 24, 1983.]

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1984

THURSDAY, MARCH 24, 1983

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 9:30 a.m., in room S-146, the Capitol, Hon. Warren B. Rudman (presiding).

Present: Senator Rudman.

LEGAL SERVICES CORPORATION

STATEMENT OF DONALD P. BOGARD, PRESIDENT, LSC

ACCOMPANIED BY:
- DENNIS DAUGHERTY, VICE PRESIDENT FOR OPERATIONS, LSC
- ALAN SWENDIMAN, ACTING GENERAL COUNSEL, LSC
- CHARLES RITTER, VICE PRESIDENT FOR FINANCES, LSC
- ALFREDA HARVEY, BUDGET OFFICER, LSC

OPENING STATEMENT OF SENATOR RUDMAM

Senator RUDMAN. The subcommittee will come to order. We are here today to discuss the budget presentations by the Legal Services Corporation, the U.S. Information Agency, and the Equal Employment Opportunity Commission with Legal Services Corporation testifying first.

I rarely make opening statements at hearings as I believe the reason for hearings is to elicit the views of the witnesses, not to elicit the views of Senators. Nonetheless, the situation that has developed over the last 2 years with regard to the Legal Services Corporation is so serious and since you, Mr. Bogard, are walking into a political mine field rather late, I feel compelled, as a matter of record in this hearing, to bring a congressional perspective to your attention.

DEBATE OVER ABOLISHMENT OF LEGAL SERVICES CORPORATION

Two years ago, the administration proposed that the Legal Services Corporation be abolished. The fate of the Corporation was subsequently debated in the House Judiciary Committee, the Senate Labor and Human Resources Committee, the Senate and House

Appropriations Committees, and by both the full House and the full Senate. The net result of this debate was a 25-percent reduction in funds for the LSC and the imposition of our restrictions on the activities of LSC grantees.

The congressional resolution of this issue was unsatisfactory to the administration and it subsequently began what can only be called an unending guerrilla warfare to undermine the congressional action and the Corporation itself. In late December 1981, after Congress has adjourned, the administration decided to appoint a new LSC Board using its power to make recess appointments. Unfortunately, the administration would not send up nominees under the regular process for Senate confirmation until a lawsuit was filed by the previous Board challenging the reliance on the recess appointment mechanism. I will not get into the question of the qualifications of the nominees sent up for confirmation. Suffice it to say that some were controversial and the administration, rather than risk having some of their nominees confirmed and others rejected, decided to withdraw all of them.

POLICIES OF RECESS-APPOINTED BOARD

Meanwhile, over the course of 1982, the recess-appointed Board attempted to set new policies for the LSC and its grantees. Rather than abide by the clear congressional intent that class action suits be permitted but that restrictions be imposed which would eliminate frivolous suits, the Chairman of the Board proposed a regulation which would have effectively eliminated all class action suits. Further, there was a significant lobbying effort to get Congress to agree to the elimination of procedural rights that LSC grantees have prior to having their funding terminated. Mind you, grantees have no substantive protection. They simply have a right to get a hearing, and we were being lobbied to deny them that. Funds appropriated to the LSC were used to solicit public support for proposals by the Chairman, an action that may have been in violation of the law and one which the Chairman would surely have criticized had it been undertaken by the previous "liberal"—whatever that word really means—Board. There was also substantial controversy over the process by which the new President was chosen, a fact of which I am sure you are aware.

Finally, most of the recess appointments have expired and I am not aware of any efforts by the administration to name new nominees. Furthermore, it appears that only those previous recess appointments who happily supported actions proposed by the Board Chairman will be renominated. While that is the administration's prerogative, the LSC is supposed to be an independent agency and using the temporary nature of recess appointments to manipulate control of an agency does not comport with the obvious congressional intent behind making the agency independent in the first place.

RESTRICTIONS ON LSC MANAGEMENT

The result of all this manuevering was language in the last continuing resolution literally binding the hands of LSC's new management. The Board's discretion to set policy relating to class action suits was eliminated in favor of a provision which set the outer limits on what the Board could do. The procedural rights of grantees prior to funding termination were retained. Congress also legislated specific terms relating to Board compensation and your contract, something that would probably not have happened but for continual Board defiance of congressional intent. Finally, on top of all else, we mandated that funding be continued for all present grantees, even taking the trouble to specify the amounts, until such time as there is a confirmed Board of Directors.

Mr. Bogard, this is no way to run an agency. It is axiomatic that Congress is incapable of managing an agency on a day to day basis. On the other hand, while nobody has suggested that an administration must like the laws Congress enacts, it also is axiomatic that an administration should implement the letter and spirit of statutes to the best of its ability. While Congress cannot administer an agency in a positive sense, it can, as in this case, exercise the power to block actions it does not like. Congress wants a strong and effective Legal Services program. It is my hope that we will get some assurances that the Corporation will be run in the manner intended by Congress and that the restrictions on your management authority may be lifted. If assurances are not forthcoming, I am afraid the restrictions will stay, probably, in force.

Mr. Bogard, this is my perception of the situation you have walked into. You have a clean slate and I am hopeful that we can have a fruitful working relationship. That concludes my statement. You are welcome to respond to my comments or to begin with your prepared statement.

PREPARED STATEMENT

Mr. BOGARD. Thank you, Mr. Chairman. We have a prepared statement which has already been submitted. For ease, I would like to have that included in the record.

Senator RUDMAN. Without objection, the entire statement will be in the record.

[The statement follows:]

Prepared Statement of Donald P. Bogard, President, Legal Services Corporation

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I WOULD LIKE TO THANK YOU FOR THE OPPORTUNITY TO APPEAR BEFORE YOU TODAY TO DISCUSS THE APPROPRIATION REQUEST WHICH WE HAVE SUBMITTED ON BEHALF OF THE LEGAL SERVICES CORPORATION.

DURING FY '83, THE CORPORATION WAS FUNDED AT THE LEVEL OF $241,000,000, THE SAME AMOUNT OF FUNDING GRANTED BY CONGRESS FOR FY '82. AT ITS DECEMBER 16 - 17, 1982, MEETING, THE BOARD OF DIRECTORS OF THE CORPORATION VOTED TO DIRECT THE STAFF TO SUBMIT A BUDGET REQUEST TO CONGRESS FOR $257,000,000. THAT SUBMISSION WAS MADE ON JANUARY 31, 1983.

THE DECISION OF THE BOARD WAS MADE FOLLOWING A STAFF RECOMMENDATION IN NOVEMBER THAT AN INFLATION FACTOR OF 6.7 PERCENT BE ADDED TO THE AMOUNT APPROPRIATED FOR FY '83. THE BASIS FOR THE 6.7 PERCENT WAS THE ESTIMATED RATE OF INFLATION BY THE OFFICE OF MANAGEMENT AND BUDGET IN ITS MID-SESSION REVIEW. WHILE THAT RATE WAS NOT SUFFICIENT TO OFFSET THE ACTUAL AMOUNT OF INFLATION FOR THE PAST TWO YEARS, THE BOARD FELT THAT IT WAS A REALISTIC INCREASE BASED UPON THE BUDGETARY DECISIONS THIS CONGRESS WILL BE CALLED UPON TO MAKE.

ANOTHER DECISION MADE BY THE BOARD OF DIRECTORS AT ITS DECEMBER MEETING WAS TO FUND ALL LEGAL SERVICES PROGRAMS FOR FY '83 AT THE SAME LEVEL AT WHICH THEY WERE FUNDED FOR FY '82. THUS, THE 292 BASIC FIELD PROGRAMS, THE TEN NATIVE AMERICAN PROGRAMS, AND THE TWO MIGRANT PROGRAMS, ALL RECEIVED THE SAME FUNDING AS LAST YEAR. THE BOARD ALSO VOTED TO FUND THE 17 NATIONAL SUPPORT CENTERS AND THE FIVE STATE SUPPORT CENTERS AT THEIR ANNUALIZED LEVELS, AND TO GIVE THOSE PROGRAMS THE FIRST SIX MONTHS OF THEIR GRANTS WHILE A STUDY WAS BEING CONDUCTED

REGARDING THE CONTINUATION OF THOSE GRANTS. STATE SUPPORT COMPONENTS OF BASIC FIELD PROGRAMS WERE LIKEWISE FUNDED AT THEIR ANNUALIZED LEVELS FOR SIX MONTHS.

AFTER THE BOARD MEETING, CONGRESS PASSED THE SECOND CONTINUING RESOLUTION, P.L. 97-377 WHICH DIRECTED THAT THE FUNDS APPROPRIATED THEREUNDER WERE TO BE USED TO INSURE THAT THE FUNDING FOR ALL FY '82 GRANTEES AND CONTRACTORS BE CONTINUED AT THEIR SAME ANNUALIZED FUNDING LEVELS IN FY '83 UNTIL ACTION IS TAKEN BY A BOARD OF DIRECTORS CONFIRMED BY THE SENATE. WE ARE CONDUCTING A REVIEW OF NATIONAL AND STATE SUPPORT FOR THE PURPOSE OF ASCERTAINING WHETHER OUR LIMITED RESOURCES COULD BE BETTER USED IN THE DIRECT DELIVERY OF SERVICES THAN IN THE PURCHASE OF SUPPORT FROM THOSE ENTITIES. PURSUANT TO THOSE DIRECTIVES, WE HAVE CONDUCTED A THOROUGH REVIEW OF EXISTING LITERATURE OVER THE LAST MONTH AND A HALF AND WE WILL SOON COMMENCE A SURVEY OF FIELD ATTORNEY NEEDS FOR, AND EXPERIENCE WITH, SUPPORT SERVICES. I CANNOT PREDICT WHAT THE OUTCOME OF OUR REVIEW WILL BE. I CAN ASSURE YOU OF OUR INTENT TO OBSERVE CAREFULLY THE TERMS OF THE CONTINUING RESOLUTION WHICH REQUIRE THAT WE MAINTAIN THE FY '82 ANNUALIZED FUNDING LEVELS FOR ALL GRANTEES ABSENT DECISIONS BY A CONFIRMED BOARD OF DIRECTORS.

A THIRD FUNDING ACTION TAKEN BY THE BOARD AT ITS DECEMBER MEETING WAS TO AWARD AN ADDITIONAL $1,000 TO EACH OF THE BASIC FIELD, MIGRANT, AND NATIVE AMERICAN PROGRAMS SPECIFICALLY FOR THE PURPOSE OF PROVIDING TRAINING FOR THE CLIENT REPRESENTATIVES SITTING ON THE GOVERNING BOARDS OF THOSE PROGRAMS. THIS FUNDING WILL BE USED TO ASSIST THOSE CLIENTS TO LEARN MORE ABOUT THE DECISIONS THEY WILL BE CALLED UPON TO MAKE DURING THEIR SERVICE TO THOSE BOARDS.

DURING THE PAST YEAR, THE BOARD OF DIRECTORS MADE OTHER DECISIONS WHICH AFFECTED THE OPERATION OF ALL LEGAL SERVICES PROGRAMS. ONE OF THOSE MATTERS INVOLVED APPROVING AN

INSTRUCTION ON FUND BALANCES. THIS INSTRUCTION WAS ADOPTED AFTER THE BOARD DISCOVERED IN MID-1982 THAT THE FIELD PROGRAMS HAD FUND BALANCES OF APPROXIMATELY $41,000,000. REALIZING THAT SOME FUND BALANCE CARRYOVER IS TO BE EXPECTED FROM ONE YEAR TO THE NEXT, BUT ALSO DESIRING THAT THE FUNDS APPROPRIATED BY CONGRESS BE UTILIZED TO PROVIDE THE DIRECT DELIVERY OF LEGAL SERVICES TO THE POOR DURING THE YEAR IN WHICH THOSE FUNDS WERE APPROPRIATED, THE BOARD'S INSTRUCTION ALLOWS EACH PROGRAM TO CARRY OVER 10 PERCENT OF ITS ANNUALIZED GRANT AND PROVIDES THE RIGHT TO PETITION THE CORPORATION TO INCREASE THAT PERCENTAGE TO 25 PERCENT UPON A SHOWING OF GOOD CAUSE. ANY CARRYOVER IN EXCESS OF 10 PERCENT OR THE LEVEL PERMITTED BY A SPECIFIC WAIVER WILL BE SET OFF AGAINST THE SUCCEEDING YEAR'S GRANT AWARD.

A SECOND IMPORTANT DECISION BY THE BOARD WAS TO SET ASIDE RESOURCES TO INVESTIGATE AND PROMOTE "NEW DIRECTIONS FOR THE PRIVATE BAR." CONGRESSIONAL INTERESTS IN GREATER PARTICIPATION BY THE PRIVATE BAR IN LEGAL SERVICES DELIVERY AND THE CORPORATION'S COMMITMENT TO LEVERAGING ITS APPROPRIATION TO SECURE ADDITIONAL LEGAL ASSISTANCE FROM THE PRIVATE BAR REQUIRE ADEQUATE FINANCIAL SUPPORT TO ACCOMPLISH THOSE OBJECTIVES EFFECTIVELY. THESE FUNDS CAN BE MADE AVAILABLE FOR PROJECTS SPONSORED BY STATE BAR ASSOCIATIONS, SUCH AS THOSE DESIGNED TO ENCOURAGE PRIVATE ATTORNEY PARTICIPATION, IMPLEMENT INNOVATIONS IN LOCAL DELIVERY SYSTEMS, AND DEVELOP ALTERNATIVE SOURCES OF FINANCIAL SUPPORT. IT IS OUR EXPECTATION THAT THIS RELATIVELY SMALL AMOUNT OF LSC FUNDS WILL GENERATE A SUBSTANTIAL RETURN IN THE NUMBER AND QUALITY OF ATTORNEY HOURS DEVOTED TO ASSISTING THOSE UNABLE TO AFFORD COUNSEL.

IN THAT REGARD, THE CORPORATION JOINTLY SPONSORED A NATIONAL CONFERENCE IN TAMPA, FLORIDA, TO DISCUSS A NEW PROGRAM CALLED IOLTA, INTEREST ON LAWYER TRUST ACCOUNTS. THE IOLTA PROGRAM FIRST GAINED PROMINENCE IN FLORIDA. A VOLUNTARY

PROGRAM WAS ADOPTED IN THAT STATE WHEREBY FUNDS HELD IN LAWYER TRUST ACCOUNTS COULD BE INVESTED IN THE NEWLY CREATED NEGOTIABLE ORDER OF WITHDRAWAL (NOW) ACCOUNTS IF THOSE FUNDS WERE OF A SMALL AMOUNT OR HELD FOR A SHORT DURATION SO THAT THEY COULD NOT BE INVESTED FOR THE BENEFIT OF THE CLIENT. BY ACCUMULATING THOSE FUNDS INTO ONE ACCOUNT AND PAYING INTEREST ON THE AVERAGE MONTHLY BALANCE TO A THIRD PARTY FOR THE BENEFIT OF LEGAL SERVICES TO THE POOR, BAR LEADERS HOPED TO SUPPLEMENT LSC FUNDS BY A SIGNIFICANT AMOUNT. THUS FAR, AFTER RECEIVING FUNDS SINCE MAY, 1981 FROM NEARLY 15 PERCENT OF THE FLORIDA ATTORNEYS WITH TRUST ACCOUNTS (PARTIALLY THROUGH THE ASSISTANCE OF A LSC IMPLEMENTATION GRANT) THE FLORIDA BAR FOUNDATION HAS RECEIVED APPROXIMATELY $926,000 AND IS STARTING TO DISTRIBUTE GRANTS. AS THE PROGRAM'S SUCCESSES ARE PUBLICIZED AND MORE ATTORNEYS SIGN UP, EVEN GREATER SUMS WILL BE COLLECTED.

NEW HAMPSHIRE HAS APPROVED AN IOLTA PROGRAM AND IS NOW RECEIVING INTEREST. OTHER STATES HAVE ALSO STARTED WORKING ON IOLTA PROGRAMS, INCLUDING CALIFORNIA, WHICH ADOPTED A COMPULSORY PROGRAM, MARYLAND, COLORADO, MINNESOTA, IDAHO, AND CONNECTICUT, ALTHOUGH NONE OF THOSE STATES HAS STARTED COLLECTING FUNDS AT THIS TIME.

AFTER ATTENDING THE FLORIDA CONFERENCE, I BECAME AWARE THAT SUBSTANTIAL AMOUNTS OF SUPPLEMENTAL FUNDS COULD BE GENERATED TO PROVIDE LEGAL ASSISTANCE TO THE POOR IN CIVIL LEGAL MATTERS IF MOST STATES WOULD ADOPT IOLTA PROGRAMS. THIRTY-NINE STATES ARE NOW IN VARIOUS STAGES OF STUDYING THOSE PROGRAMS, AND, THEREFORE, THE LEGAL SERVICES CORPORATION DECIDED TO PROVIDE THE CENTRALIZED ORGANIZATION NEEDED TO EXPAND IOLTA PROGRAMS. PLANS ARE UNDER WAY TO ESTABLISH A NATIONAL IOLTA CLEARINGHOUSE WHICH WILL BE FUNDED BY A GRANT FROM THE CORPORATION. THAT CLEARINGHOUSE WILL WORK WITH ALL OF THE STATES TO TRANSMIT MATERIALS DEVELOPED IN OTHER STATES WHICH CAN SPEED UP THE PROCESS OF ADOPTION OF A PROGRAM. IN

ADDITION, IT WILL SEND RECOGNIZED EXPERTS TO WORK WITH THE STATES IN ACCOMPLISHING THE ADOPTION PROCESS. IF A STATE DETERMINES TO ADOPT AN IOLTA PROGRAM, THEN LSC WILL MAKE FUNDS AVAILABLE BY GRANT TO IMPLEMENT THE PROGRAM.

BASED UPON THE FLORIDA EXPERIENCE, IT IS REALISTIC TO ESTIMATE THAT TENS OF MILLIONS OF DOLLARS COULD BE ADDED TO CURRENT LSC FUNDING TO PROVIDE LEGAL SERVICES TO THE POOR IN CIVIL MATTERS IF THIRTY TO FORTY STATES WERE TO ADOPT IOLTA PROGRAMS. THIS SUPPLEMENTAL FUNDING, CREATED FROM PRIVATE SOURCES THROUGH THE CATALYTIC EFFORTS OF THE LEGAL SERVICES CORPORATION, WILL SIGNIFICANTLY ENHANCE THE DIRECT DELIVERY OF DAILY LEGAL SERVICES TO THE POOR.

A SECOND PROGRAM UNDERWAY BY THE PRIVATE BAR WHICH IS EQUALLY AS EXCITING AS THE IOLTA PROGRAM ALTHOUGH NOT AS EXPANSIVE IN SCOPE, IS THE PRO BONO EFFORT SPONSORED BY THE AMERICAN CORPORATE COUNSEL ASSOCIATION. THERE ARE APPROXIMATELY 30,000 LAWYERS IN THE UNITED STATES PRACTICING AS IN-HOUSE COUNSEL TO PRIVATE CORPORATIONS. THE ACCA IS ATTEMPTING TO ORGANIZE A NATIONWIDE PROGRAM FOLLOWING THE LEAD OF VARIOUS MAJOR CORPORATIONS SUCH AS AETNA LIFE AND CASULTY, XEROX, BOISE CASCADE, AND OTHERS, WHEREBY CORPORATE COUNSEL PROVIDE LEGAL ASSISTANCE TO POOR PEOPLE LOCATED IN THEIR COMMUNITIES. THE LEGAL SERVICES CORPORATION WAS CONTACTED BY THE ACCA AND IS ATTEMPTING TO DETERMINE IN WHAT WAYS IT CAN BE OF ASSISTANCE. REPRESENTATIVES OF LSC ARE NOW ATTENDING MEETINGS OF THE ACCA PRO BONO COMMITTEE, REVIEWING TRAINING MATERIALS AND OFFERING COMMENTS, MAKING VARIOUS PUBLICATIONS AND TRAINING MATERIALS AVAILABLE, AND EXAMINING OTHER WAYS IN WHICH IT CAN ASSIST THIS VERY WORTHWHILE EFFORT, JUST AS THE CORPORATION HAS SUPPORTED PAST AND CONTINUING EFFORTS TO INCREASE PRIVATE ATTORNEY INVOLVEMENT BY THE ABA, NBA, AND OTHERS.

A THIRD IMPORTANT DECISION BY THE BOARD WAS TO CREATE THE OFFICE OF INSPECTOR GENERAL TO PROVIDE AN INDEPENDENT MECHANISM TO INVESTIGATE PROBLEMS OR COMPLAINTS WHICH MAY ARISE CONCERNING RECIPIENTS AND THE CORPORATION. THE INSPECTOR GENERAL, AN OFFICER OF THE CORPORATION, WILL REPORT DIRECTLY TO THE BOARD. ALTHOUGH THE FUNCTION HAS BEEN RECENTLY CREATED, THE PROCESSING OF COMPLAINTS BY THAT OFFICE IS BEING ORGANIZED AND IMPLEMENTED BY ATTORNEYS IN ANTICIPATION OF SELECTION OF AN INSPECTOR GENERAL BY THE BOARD IN THE NEAR FUTURE.

WHILE ALL OF THIS WAS GOING ON, LSC RECIPIENTS CONTINUED TO PROVIDE CIVIL LEGAL SERVICES TO THE POOR. RECENTLY COLLECTED FIGURES SHOW THAT DURING FY '82, THOSE RECIPIENTS CLOSED 1,141,481 CASES COMPARED TO 1,221,594 CASES IN FY '81 AND 1,203,853 IN FY '80. AVERAGE SALARIES FOR ALL PERSONNEL CONTINUED TO RISE AS DID THE AVERAGE YEARS OF EXPERIENCE OF ATTORNEYS, MANAGING ATTORNEYS, AND PROGRAM DIRECTORS. MOST STATES EXPERIENCED INCREASES DURING CALENDAR YEAR 1982 IN THE NUMBER OF ATTORNEYS IN THE BASIC FIELD PROGRAMS. NATIONWIDE, THERE WAS AN INCREASE IN THE TOTAL NON-ATTORNEYS AND SECRETARIAL/ CLERICAL EMPLOYEES IN LSC PROGRAMS FROM 1982 TO 1983.

AT THIS TIME, NEARLY NINETY-SIX PERCENT (96%) OF THE REQUESTED FY 1984 BUDGET IS TARGETED FOR GRANTS TO QUALIFIED PROGRAMS ENGAGED IN THE DIRECT DELIVERY OF CIVIL LEGAL SERVICES TO ELIGIBLE CLIENTS. THE REMAINING AMOUNT WILL BE ALLOCATED FOR CENTRAL MANAGEMENT AND ADMINISTRATION, CENTRAL AND REGIONAL GRANT MANAGEMENT, AND THE EVALUATION AND MONITORING OF LOCAL LEGAL SERVICES PROGRAMS.

DURING 1982, THE LEGAL SERVICES CORPORATION CONTINUED TO MAINTAIN NATIONWIDE GEOGRAPHICAL COVERAGE, WHILE TAKING SIGNIFICANT STEPS TO FOCUS LSC RESOURCES ON THE NEEDS OF INDIVIDUAL CLIENTS SEEKING COUNSEL AND COURTROOM REPRESENTATION. CONGRESS PROHIBITED LEGAL SERVICES ATTORNEYS

FROM INITIATING COMMUNICATIONS WITH ELECTED OFFICIALS, EITHER DIRECTLY OR INDIRECTLY, WHICH ARE DESIGNED TO SUPPORT OR DEFEAT LEGISLATIVE PROPOSALS. THAT CONGRESSIONAL ACTION MAKES AVAILABLE ADDITIONAL ATTORNEY TIME FOR THOSE CRITICAL ACCESS FUNCTIONS WHICH, UNLIKE LOBBYING, CANNOT BE PERFORMED BY POOR PERSONS WITHOUT THE ASSISTANCE OF TRAINED LEGAL COUNSEL.

NOT ONLY DOES THE CORPORATION'S BUDGET REQUEST CALL FOR AN INFLATION ADJUSTMENT, IT ALSO URGES THIS CONGRESS TO REMOVE SEVERAL PROVISIONS WHICH WERE ATTACHED TO THE SECOND CONTINUING RESOLUTION PASSED IN DECEMBER, 1982. AT THAT TIME, CONGRESS APPROVED CERTAIN PROVISIONS WHICH CONTRAVENE THE CLEAR INTENT OF THE LEGAL SERVICES CORPORATION ACT GUARANTEEING THE CORPORATION'S INDEPENDENCE FROM POLITICAL INFLUENCE. THOSE PROVISIONS SERIOUSLY RESTRICT THE CORPORATION'S ABILITY TO FULFILL ITS OBLIGATION TO OVERSEE EFFECTIVELY THE EXPENDITURE OF $257 MILLION.

AS MENTIONED ABOVE, ONE PROVISO REQUIRES THAT EACH 1982 GRANTEE AND CONTRACTOR BE FUNDED IN 1983 AT THE ANNUALIZED LEVEL AT WHICH EACH SUCH GRANTEE AND CONTRACTOR WAS FUNDED IN 1982 UNLESS AND UNTIL ACTION IS TAKEN BY A CONFIRMED BOARD. THAT PROVISO CONFLICTS WITH SEVERAL STATUTORY MANDATES OF THE LEGAL SERVICES CORPORATION ACT, INCLUDING THE STATUTORY MANDATE THAT LSC "INSURE THAT GRANTS AND CONTRACTS ARE MADE SO AS TO PROVIDE THE MOST ECONOMICAL AND EFFECTIVE DELIVERY OF LEGAL ASSISTANCE TO PERSONS IN BOTH URBAN AND RURAL AREAS." 42 U.S.C. 2996F(A)(3). IT ALSO CONFLICTS WITH THE RESPONSIBILITY OF THE CORPORATION TO DETERMINE WHAT "GRANTS AND CONTRACTS (OTHER THAN THOSE TO PROGRAMS FURNISHING LEGAL ASSISTANCE TO ELIGIBLE CLIENTS)... ARE NECESSARY TO CARRY OUT THE PURPOSES AND PROVISIONS OF THIS TITLE." 42 U.S.C. 2996E(A)(1)(B).

THE LSC ACT DOES NOT CONTEMPLATE THAT EITHER CONGRESS OR THE PRESIDENT WOULD ATTEMPT TO PRESCRIBE THE IDENTITIES OF RECIPIENTS OF CORPORATION FUNDS OR THE AMOUNT OF THEIR GRANTS.

Such decisions were committed to the President of the Corporation (42 U.S.C. 2996f(e)) who is to avoid the consideration of political factors in making those decisions. However, by P.L. 97-377, Congress has restricted the independent judgment of the Corporation's president on the basis of a distinction recognized by neither the Constitution nor the courts between the powers exercised by officials appointed by the President of the United Sates with the advice and consent of the Senate and those appointed during the recess of the Senate pursuant to Article II, Clause 3 of the Constitution of the United States.

That action could also have serious consequences in its application. Due to the unavailability of more recent information, 1982 funding levels were established utilizing 1970 census data which identified the location of those who had an income below the Official Poverty Threshhold. However, a grant condition was imposed on all 1983 basic field grants which provides that those grants may be increased or decreased for the remainder of the grant year if the census data becomes available and the Board determines to implement a change based upon that data. Thus, the Corporation will be seeking relief from that provision during 1983, and such a requirement should not be carried forward to FY '84. Any mandate that the Corporation distribute funds in 1984 based upon information gathered in 1970 will result in a deficiency of funds in areas which experienced substantial increases in the number of poor persons since 1970. Whatever circumstances existed in 1982 that prompted the adoption of this proviso guaranteeing refunding at current levels in 1983 should not exist in 1984 and must not be allowed to restrict the Corporation's ability to reach those who in 1984 need its assistance.

A second proviso of P.L. 97-377 prohibits compensation of Corporation Directors for services to the Corporation other

THAN ATTENDANCE AT MEETINGS OF THE BOARD. THIS PROVISO SERIOUSLY INHIBITS THE BOARD'S ABILITY TO MAKE INFORMED DECISIONS AND TO OVERSEE THE AFFAIRS OF THE CORPORATION. SINCE 1975, WHEN THE LEGAL SERVICES CORPORATION BECAME OPERATIONAL, IT HAS BEEN THE CORPORATION'S POLICY TO COMPENSATE THE DIRECTORS FOR THE TIME DEVOTED TO REVIEW AND ANALYSIS OF THE VARIOUS PROGRAMS AND ACTIVITIES OF THE CORPORATION. TIME SPENT ON VISITS TO LEGAL SERVICES PROGRAMS, PREPARATION FOR BOARD AND COMMITTEE MEETINGS, APPEARANCES BEFORE CONGRESSIONAL COMMITTEES, AND OTHER ACTIVITIES OF THE DIRECTORS RELATED TO THEIR DUTIES AS MEMBERS OF THE BOARD HAVE BEEN COMPENSATED IN ACCORDANCE WITH CORPORATION REGULATIONS AND CLEAR LEGISLATIVE HISTORY OF SECTION 1006(A)(2) OF THE LEGAL SERVICES CORPORATION ACT.

THIS PROVISO IMPOSES A FAR MORE RESTRICTIVE COMPENSATION STANDARD ON A BOARD CHARGED WITH OVERSEEING A QUARTER OF A BILLION DOLLAR CORPORATION THAN APPLICABLE TO OTHER BOARDS AND COMMISSIONS WITH SIMILAR OVERSIGHT RESPONSIBILITIES. SUCH RESTRICTIONS SHOULD NOT BE CONTINUED IN 1984. A GENERAL ACCOUNTING OFFICE STUDY SHOULD SOON PROVIDE CONGRESS WITH GUIDANCE CONCERNING APPROPRIATE COMPENSATION POLICY FOR THE LSC AND SIMILAR PUBLIC BOARDS AND COMMISSIONS.

AT THIS TIME I WOULD BE PLEASED TO RESPOND TO ANY QUESTIONS FROM THE CHAIRMAN AND MEMBERS OF THE COMMITTEE.

INTRODUCTION OF ASSOCIATES

Mr. BOGARD. If I may introduce the people I have with me. On my far left is Alan Swendiman, the acting General Counsel of the Corporation, on my left is Dennis Daugherty, the Vice President for Operations, on my immediate right is Charles Ritter who is Vice President for Finances and on his right is Alfreda Harvey who is our Budget Officer.

MAINTAINING CORPORATION STATUS QUO

I would like to respond to a few of the things that you mentioned, Senator, and not dwell a lot on the history but simply let you know that even though I have walked into this situation in rather unusual circumstances, I have not been given any marching orders to do anything to harm the Corporation. The Corporation is not to be destroyed, it is not to be wound down, it is not to be affected in any way. As a matter of fact, we are here today requesting more funds. We want an increase and if you want to give us more than we ask for, we will take it and we will spend it. We will spend it effectively, efficiently and we intend to make the Corporation as viable and as productive as possible.

BUDGET REQUEST

The amount that we have asked for is $257 million. In the middle of last year, the acting president at that time recommended a 6.7-percent increase in the funding which had been maintained for 1982 and 1983, at $241 million. The Board accepted that recommendation and instructed me in December to come forward with the $257 million figure. That is purely an inflation factor. We thought it was a reasonable amount to request based upon the decisions that Congress is going to have to make as far as other funding programs. As I have indicated, however, we will take more money if you wish to give it to us.

REFUNDING OF GRANTEES

We feel that everything that has been done has had a positive effect as far as refunding of the programs. In December, the Board instructed me to refund all of the basic field programs, the Native American programs, and the migrant programs at the same level. They did that prior to the action by the Senate. So we have refunded those grantees, all 304 of them, at the existing 1982 levels for fiscal 1983.

Now, they also advised me to prepare grants for the annualized level for State and national support and the National Clients Council and they instructed that the first 6 months of that funding should be granted to those groups and the balance should be placed in reserve pending a study of whether or not it should be continued, expanded, decreased or whatever. We have done that. We are proceeding with the study. We anticipate having some results soon. But there is an incredible amount of material so we are not sure we are going to make any June deadlines.

In that regard, I went to the Board on March 15 and suggested to them that they should consider 3 months funding out of the reserve account and put it into the accounts so that we can continue and extend our funding for 3 months pending the outcome of the study. Also, as you mentioned, there is the fact we don't have a confirmed Board. We, obviously, are not going to make any funding changes without the confirmed Board.

Senator RUDMAN. What was the reaction to the proposal?

Mr. BOGARD. Unanimously adopted, so the money has been transferred. So we are going to be funded for the first 9 months of this year. If we don't have the study concluded so that the Board can make a rational, intelligent decision or if there is not confirmation, then, obviously, the balance of the funding will be extended.

Now, I know that Congress has reacted to the problems that arose in December and placed restrictions on us. I would like to see those restrictions eased.

Senator RUDMAN. So would I.

Mr. BOGARD. I think it is imperative for the management of this Corporation that we do so. We are required to run the Corporation as effectively as we can. We are supposed to make sure that all of the grants are issued to the proper people, that we issue the grants that are necessary to carry out the purposes of the act and I don't believe we can do that under those restrictions placed on us.

The Corporation is supposed to be free from political influence, and I would certainly hope that will continue to be so.

As I indicated, there is no instruction to me to do anything other than maintain the integrity of the Corporation.

I think one reason that I can show you the restrictions ought to be eased is a simple practical situation. We are currently funding people based upon 1970 census data; the 1980 census data has not been available on a countywide basis. I was informed yesterday that that information will be available in about 3 weeks. Now, in the last year's grants for fiscal 1983, we put in a condition which allows us to go back and alter funding on a prospective basis based upon census data if the Board decides to do that. With restrictions that are placed upon us, we cannot do that until we get a confirmed Board. We think that the 1980 data will show a significant shift in the population, the poor population of the country. It will show, maybe, a million increase in numbers but they are going to be located in a lot of different places than they were in 1970. Therefore, we would like to have the authority to go in and make adjustments so that we can put the money where the poor people actually are. We are prohibited from doing that under the current guidelines in the continuing resolution.

BOARD COMPENSATION

There were perceived abuses by the Corporation's Board of Directors in the funding that they received for compensation, travel, things like that. That, of course, is being investigated by the GAO right now. I don't share the feeling that there were abuses. I do, however, feel that the Corporation needs to function and the Congress can set some limits on us. I would like to see an easing of the actual prohibition for payments other than for attendance of Board meetings and travel incident to them.

For example, I think it necessary that the Board members be able to go out and visit programs, to find out what is going on. There is no way I can pay them their expenses to do that. I think they have to be informed. The Corporation generates just an incredible amount of paper. They have to be able to read that and prepare for it just like an attorney would prepare to go into court. I don't think there is anyone who knows everything about the Corporation's function and can manage to be informed without continual work and, therefore, I feel we ought to have some ability to pay them for the time that they spend preparing for meetings. As I say, there can be a cap, but there should be some easing of those restrictions.

Senator RUDMAN. Mr. Bogard, there are some extraordinarily well qualified people out there in the country who have an understanding of what this Corporation is about, who have a sense of what the Corporation ought to do, and will be willing, for merely reimbursement of the actual expenses incurred, to spend a great deal of time, public spirited citizens looking into what is good for Legal Services Corporation that would not need to be on a per diem. For instance, I know people in my own State of New Hampshire that serve hundreds of hours a year in voluntary capacities on various boards and commissions of our State government. Ours is very much a citizen government in New Hampshire. It is made up of citizen boards who run many of the key agencies in terms of advise and control. They receive no compensation other than their travel around the State or outside of the State. Why is it necessary to appoint people who need monetary reimbursement for the efforts they expend on behalf of doing something that is noble and good rather than doing it for the sake of doing it?

Mr. BOGARD. Senator, I believe that it is necessary to make some provision for the amount of time that these people are willing to give and take away from their businesses. For example, last year there were a couple of people who came under severe criticism for the amount of billing. One of those was Dean Harvey, Chairman of the Board. Dean had his accountant go through all his records and he found out he donated approximately 500 hours of his time to the management of the Corporation which was totally uncompensated. That is a pretty sizable term of time. He also billed for some 800 hours. That may need to be controlled. But I think last year's situation which caused the establishment of restrictions was truly unique. The Corporation operated with four different Presidents during the year. The first President was leaving in March, there were two acting Presidents and I wasn't appointed until December 13. I believe the Corporation's Board felt that it had to get into the day-to-day running of the Corporation, that it had to make decisions which it normally would not be called upon to make. I think in the optimum situation which you described not a great deal of time in running the Corporation is necessary, then your suggestion would be quite proper. But, under last year's situation, and perhaps again, there could be a time when they will have to devote more time to finding out what is going on in the Corporation.

In 1975 when the Corporation was established there were significant regulations prepared. Those regulations were prepared by outside counsel at the maximum daily rate paid by the Corporation.

This Board last year felt that as a result of the first continuing resolution that they had to make some changes in regulations. Considerable amount of their time was devoted personally to drafting those. Now, that may not have been a correct decision, but it was a decision that they made.

BOARD MEETINGS

Senator RUDMAN. How much time is appropriately required for a member of this Board—how many meetings are there a year, first?

Mr. BOGARD. In 1981 the Board met 12 times.

Senator RUDMAN. So that would be once a month. How long did the meetings take? A day?

Mr. BOGARD. Or two.

Senator RUDMAN. Or two. Assuming that you are a capable executive—and I assume you are—how much time would it take for Board member X on a weekly basis, living in Portland, Maine or Seattle, Wash., to devote to the affairs of Legal Services Corporation as a member of the Board, assuming that you are doing your job right? How much time should that take them?

Mr. BOGARD. I really don't know.

Senator RUDMAN. Well, I know people who are members of the board of General Motors and IBM and many other major American corporations who rarely spend more than 2 or 3 hours a week looking at the affairs of that corporation. If anyone is interested I will give you a list of names of people who will give you all the time you need, they have impeccable credentials.

Mr. BOGARD. To follow up, in 1982 the Board met 28 times so there was a considerable change in the amount of meetings.

Senator RUDMAN. Self-induced?

Mr. BOGARD. The statute requires that the Board meet four times a year and that is the minimum that was necessary.

PERSONNEL SERVING ON BOARD

Senator RUDMAN. Why don't we go on to another subject. How many people are serving on the Board right now?

Mr. BOGARD. Five.

Senator RUDMAN. Who are they?

Mr. BOGARD. There is a gentleman named Robert McCarthy, a lawyer from San Francisco who was just elected Chairman of the Board; the Vice Chairman is Frank Donatelli, a lawyer from Washington; Milton Masson who is a businessman from Phoenix; Donald Santarelli who is a lawyer from Washington; and Daniel Rathbun, a student who is the client representative.

Senator RUDMAN. I know some of those people. I know Mr. Santarelli is an outstanding individual. He brings a lot of good background and I am sure a lot of voluntary time to the Board.

What is the quorum requirement for the Board to take action?

Mr. BOGARD. Under District of Columbia law, which it was incorporated under, we need to have a third of the number of the Board. So we can have a quorum of four people.

BOARD NOMINEES

Senator **Rudman**. Do you have any information regarding whether the administration will submit nominees to the Senate for confirmation?

Mr. **Bogard**. I understand that a number of people have been interviewed and that nominees will be made sometime in the future after whatever checks they need to make.

MEASURING THE NEED

Senator **Rudman**. Getting now down to the management of the Corporation to delivery of services, which is really what we ought to spend most of our time talking about, what percentage of eligible individuals seeking assistance from local grantees are currently being served, to the best of your knowledge?

Mr. **Bogard**. I have been trying to find that out. We don't have any hard figures anywhere in the Corporation that will give us that type of information. We talked about the possibility of doing a needs study to find out exactly what is out there and what needs to be served. We have gotten estimates of time from 3 months to 2 years and the costs from $100,000 to $2 million. So we have not made that initial decision to go ahead. I think we are meeting a third to a half of the need. I suspect that we are in that area but that is just a guestimate.

Senator **Rudman**. I think that the committee will certainly like to know during the coming months of any additional information that you acquire concerning this because certainly in the past we have received information from your predecessor that was, I thought, both accurate and detailed. It seems to me and the committee that you should be able to have particulars, even if you want to sample some areas rather than try to do the entire country. You might take a number of areas from west to east with major pockets of poverty and unemployment and ask your directors in those States to give the information. They must have some idea of what their backlog is.

CASE MIX HANDLED BY LOCAL PROGRAMS

What is the current mix of cases being handled by the local programs? Can you tell us how it compares with the mix in past years?

Mr. **Bogard**. We still are heavily involved in family law, landlord/tenant, contracts, bankruptcy, personal matters like that as well as welfare. Probably 90 percent of the cases.

Senator **Rudman**. Are the cases being handled on a regular intake basis or are a lot of cases being handled on an emergency basis?

Mr. **Bogard**. I expect both ways. Some programs are operating purely on emergency basis and others are able to function in the normal way.

ATTORNEYS FOR POOR

Senator **Rudman**. There was a minimum access goal for Legal Services for low-income citizens, a goal of two attorneys for every

10,000 eligible clients. Do you have any idea how many legal services attorneys there are now for those who are certified "poor"?

Mr. **Bogard**. As I recall the figures, it is somewhere in the neighborhood of 1.6 attorneys for every 10,000. We are a little under 2 for 10,000. We have about 4,800 attorneys in the system.

QUALITY OF ATTORNEYS

Senator **Rudman**. How have the budget cuts affected the quality of attorneys that you now have in the program? Are you getting more and more younger and less experienced attorneys?

Mr. **Bogard**. I think if you will look at the fact book which we submitted to you earlier, you will find that for the last 2 years our experience level has actually increased. We hit a bottom as far as experience in 1981 and from that point we have been going up. We are not as high as we were prior to the reductions in funding but we are coming back from the low levels of 1981.

LOCAL LEGAL AID PROGRAM RESTRICTIONS

Senator **Rudman**. In 1981 we placed four restrictions on the local legal aid programs. We, the Senate and the House, required local bar control of the local boards, prohibited representation of illegal aliens, severely restricted lobbying activities, and restricted class action suits. A couple of provisions were modified in 1982 in the last continuing resolution.

Tell us your personal views regarding these restrictions.

Mr. **Bogard**. I really have no significant differences with those. We are in the process now of coming up with regulations to implement the alien restrictions. I think that there should be some reasonable control over class actions and the language in the continuing resolution moves toward that. It seems to me that if we are going to be supplying services, legal services, to the poor, that is where our money should be targeted. Therefore, I would hate to see the money used for other purposes. So, I have no problems with those restrictions.

Senator **Rudman**. What would be the impact if we were to appropriate $241 million, which is precisely what we did last year, as opposed to the increase you asked for?

Mr. **Bogard**. There would be probably some reduction in service. There would have to be money passed out to the local boards and they would have to reassess their priorities and those who are not serving emergency matters may have to start doing more of that. But there are other ways we can create money. In the remarks that I submitted to you, we discuss IOLTA. We intend to get involved in that program very significantly using a small amount of money, in the neighborhood of $500,000 to $1 million and hopefully we can generate or assist the States in generating $20, $30, $40 million which would be supplemental money that would come into our program and we intend to do as many of those type of activities as we can to get other funding generated.

INSPECTOR GENERAL

Senator **Rudman**. Tell about the $213,000 requested to establish a new Office of the Inspector General. I have really two questions: Will he have the authority to investigate the activities of the Board and the Corporation, as well as the grantees?

Mr. **Bogard**. Yes; investigate anything involving the Corporation, as I understand it.

Senator **Rudman**. I expect it will report to the Congress, as the Inspector General's in the cabinet agencies do?

Mr. **Bogard**. I don't believe our regulations address that point. The regulations have not been adopted yet but our draft regulations do not. It is something we can look at.

Senator **Rudman**. I think you ought to look at that.

NON-FEDERAL FUND BUDGETING

Last year, the Corporation budgeted $47.9 million in non-Federal funds. How much do you expect to get this year?

Mr. **Bogard**. It is around $51 million.

Senator **Rudman**. Senator Hollings could not be here this morning but he has several questions. Let me ask you at this time on behalf of Senator Hollings.

On February 23, 1983, Senator Weicker and Senator Hollings sent the Corporation a letter in regard to the contracts for the national and State support activities as well as the National Clients Council. When can a response be expected to that letter?

Mr. **Bogard**. A response has been hand-carried already and essentially is what we have indicated earlier in our remarks.

Senator **Rudman**. That has been delivered?

Mr. **Bogard**. Yes.

Senator **Rudman**. Could you make sure that copies are redelivered today?

Mr. **Bogard**. Yes, sir. As I indicated earlier, Senator, what we will be doing here, we have asked for authority to extend the funding for 3 months and once we get either a confirmed Board or results of the study, then we will make a decision and if we don't have any of those decisions, then the funding will still be extended.

ILLEGAL ALIEN PROBLEM

Senator **Rudman**. I covered part of this one in one of my own questions but the question here from Senator Hollings is whether there has been any problems in implementing the new restrictions on representing illegal aliens, majority bar membership on local boards, and allocation of the funds to ensure continued minimum access to all parts of the country? Do you have any problems in those areas?

Mr. **Bogard**. We are working on the alien problem now. I think that is generating a lot of concern out in the programs and our general counsel is trying to draft regulations that will make that function well.

FIELD PROGRAM ANNUALIZED FUNDING LEVELS

Senator **Rudman**. Senator Hollings also asks: On page 4 of the Corporation's fact book, there is a display of the field program annualized funding levels by State. What would have been the 1983 levels if 1980 census data had been used?

Can you answer that now or would you do that for the record?

Mr. **Bogard**. We can submit that to you for the record.

[The information follows:]

FIELD PROGRAM ANNUALIZED FUNDING LEVELS, FY 1983 BASED ON POVERTY COUNTS FROM 1970 CENSUS AND 1980 CENSUS[a]

State	Acutal Distribution LSC Annualized Funding Levels, FY 1983 (1970 Census)	Assumed Distibution[b] LSC Annualized Funding Levels, FY 1983 (1980 Census)[c]	Difference	
			Number	Percent
Alabama	$ 5,534,473	$ 4,599,296	-935,177	-16.9%
Alaska	1,325,118	1,368,551	43,433	3.3
Arizona	4,065,380	4,727,715	662,335	16.3
Arkansas	3,247,717	2,603,949	-643,768	-19.8
California	20,134,242	22,673,696	2,539,454	12.6
Colorado	2,312,091	2,402,552	90,461	3.9
Connecticut	2,191,120	2,338,099	146,979	6.7
Delaware	382,007	433,665	51,658	13.5
District of Columbia	2,362,496	2,288,131	-74,365	-3.1
Florida	7,885,727	8,921,561	1,035,834	13.1
Georgia	6,406,140	6,024,409	-381,731	-5.9
Hawaii	661,410	817,920	146,510	22.1
Idaho	868,778	1,005,826	137,048	15.8
Illinois	7,408,261	7,956,870	548,609	7.4
Indiana	3,424,655	3,479,776	55,121	1.6
Iowa	2,337,668	2,098,135	-239,533	-10.2
Kansas	1,809,957	1,502,801	-307,156	-17.0
Kentucky	4,711,848	4,062,682	-649,166	-13.8
Louisiana	5,942,500	4,814,269	-1,128,231	-19.0
Maine	1,099,574	1,139,598	40,024	3.6
Maryland	2,559,961	2,604,994	45,033	1.7
Massachusetts	4,927,044	5,205,239	278,195	5.6
Michigan	6,070,456	6,700,325	629,869	10.4
Minnesota	3,112,814	2,915,981	-196,833	-6.3
Mississippi	5,075,602	3,900,905	-1,174,697	-23.1
Missouri	4,360,399	3,717,144	-643,255	-14.7
Montana	852,932	854,187	1,255	0.1
Nebraska	1,345,284	1,167,758	-177,526	-13.2
Nevada	470,690	616,715	146,025	31.0
New Hampshire	613,863	666,142	52,279	8.5
New Jersey	4,525,353	5,132,617	607,264	13.4
New Mexico	1,919,214	1,867,524	-51,690	-2.7
New York	15,312,689	16,981,177	1,668,488	10.9
North Carolina	6,762,522	5,673,141	-1,089,381	-16.1
North Dakota	833,665	739,277	-94,388	-11.3
Ohio	7,078,461	7,195,912	117,451	1.6
Oklahoma	3,219,347	2,721,362	-497,985	-15.5
Oregon	2,213,700	2,409,718	196,018	8.8
Pennsylvania	7,926,272	7,620,753	-305,519	-3.8
Rhode Island	723,420	672,178	-51,242	-7.1
South Carolina	3,923,702	3,267,266	-656,436	-16.7
South Dakota	1,312,626	1,329,389	16,763	1.3
Tennessee	5,515,704	4,783,624	-732,080	-13.3
Texas	14,557,450	14,197,422	-360,028	-2.5
Utah	841,866	1,001,178	159,312	18.9
Vermont	594,465	633,012	38,547	6.5
Virginia	4,536,289	3,949,957	-586,332	-12.9
Washington	3,258,779	3,564,874	306,095	9.4
West Virginia	2,495,630	1,879,812	-615,818	-24.7
Wisconsin	3,066,369	2,858,231	-208,138	-6.8
Wyoming	495,241	487,522	-7,719	-1.5
Micronesia	712,300	946,581	234,281	32.9
Puerto Rico	11,165,707	12,773,329	1,607,622	14.4
Virgin Islands	401,903	588,080	186,177	46.3
Guam	150,220	182,469	32,249	21.5
TOTAL	$217,043,101	$217,065,296	22,195	0.1%

[a] This table represents 1983 annualized levels including funds for basic field, migrant, native american and state support. Funds for national support are excluded.

[b] This distribution is the result of substituting poverty counts from the 1980 Census for the 1970 Census data used in allocating certain funds pursuant to the LSC minimum access formula. All other resource allocation factors, outside the minimum access formula, were held constant.

[c] 1980 Poverty population figures for Micronesia, Puerto Rico, Virgin Islands and Guam were estimated by applying the incidence of poverty in 1969 to the 1980 Census total population figures.

CONCLUDING REMARKS

Senator Rudman. Mr. Bogard, I want to say that everyone is assuming that you are going to come in here and try and do a first rate job. I think it is important to maybe go back and read the enabling legislation of this agency and some of its history. There are those in the administration who don't believe in this program, and they have that right, they have made their point and Congress has essentially rejected that point. So, it is important that you, and I think you will recognize that you are going to be looked at rather closely, carry out the intent of the Corporation. We have no reason to think you will not do that. I hope you have the kind of a Board that will enhance those efforts rather than to attempt to detract from them and I expect that we will get additional nominees of that type from the administration. Certainly the lessons over the last year should not be lost on anyone.

SUBMITTED QUESTIONS

Thank you very much for your appearance this morning and we will look forward to working with you in the coming year. We have additional questions for you to answer. Thank you.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

SUBMITTED QUESTIONS

QUESTION: In the budget justifications, you indicate that you intend to reanalyze the 1980 Delivery System "in light of changes in resources and technology." What kind of changes in technology are you referring to? How much do you intend to spend for this? What, precisely, are you planning to do?

ANSWER: We are referring to electronic communication, electronic office equipment and office computers. Significant improvements in the availability of law libraries utilizing computers and electronic communications have been made in the past few years. For example, Lexis and Westlaw constitute major developments in electronic legal research that can be made available to legal services programs. However, very few of our programs have such systems. Although the revolution in electronic office equipment is taking place across the nation, legal services programs are substantially behind in the implementation of these new systems. By making such systems available to local legal services programs, we should improve the productivity and cost effectiveness of the programs. It is also anticipated that increased reliance on electronic equipment such as word processors will improve the quality of services and make services accessible to a greater number of those eligible for assistance. Further, the increased use of small computer systems in local programs will assist them manage their resources better, strengthen fiscal control, collect and utilize important statistical data, and enable them to provide consistent and accurate reports on their activities to LSC and to Congress.

In 1983, $250,000 was set aside for technical assistance and a portion of this amount will be expended in assisting programs analyze their ability to utilize and implement such technological changes. Approximately $650,000 has been set aside in 1983 for technological improvements. Plans are not yet finalized as to the expenditure of the budgeted amount. However, in the past such funds have been utilized for the analysis, development and implementation of new technology.

QUESTION: What would your priorities be if Congress were to increase your appropriation above the requested 257 million dollars?

ANSWER: Our highest prioirity would be to increase the availability of basic legal services to low-income families.

QUESTION: Last year, the Corporation budgeted 47.9 million dollars in non-Federal funds. How much do you expect to get this year?

ANSWER: In excess of 52 million dollars.

QUESTION: Are the grantees bound by LSC rules and guidelines when they spend funds acquired by other sources?

ANSWER: 45 C.F.R. 1610 established the Corporation's policy on use of funds from sources other than the Corporation. Part 1610.2 states, "Funds received from another source for the provision of legal assistance shall not be used by a recipient for purposes prohibited by the Act or Corporation Regulations, unless such use is authorized by Part 1610.3." Part 1610.3 states "...a recipient may receive public or tribal funds and use them in accordance with the purposes for which they are provided."

QUESTION: What is the Corporation doing to increase involvement of the private bar in the provision of legal services?

ANSWER: The Corporation issued an instruction which requires all basic field programs to expend at least ten percent of their annualized grants in projects or assistance which would involve private lawyers in the delivery of legal services to low income people.

The Corporation is actively encouraging private bar organizations and our recipients to explore the possibility of involving private lawyers in the delivery of services, in support activities to local staff attorneys, and in the management of the local legal services program through board activities. In 1983 the Board of Directors of the Legal Services Corporation set aside approximately $3,000,000 to fund a new series of projects to increase private bar participation. This project is entitled "New Initiatives for Private Bar."

QUESTION: What kinds of cases are the private lawyers taking? Does the mixture of cases handled by private lawyers differ from those handled by legal services lawyers, and if so, how?

ANSWER: The kinds of cases handled by private lawyers vary substantially from one legal services program to another. There are some instances where private lawyers are providing assistance either on a pro bono or partially compensated basis. There are others where both methods are utilized. Some programs have also developed systems for determining those cases which are handled by staff and those which are referred to private lawyers. There are programs where a full range of case types are handled by the private lawyers. In others, only limited areas of practice are referred to private lawyers. As private attorney components of legal services programs mature the mixture of cases being handled by private lawyers should expand.

QUESTION: What kind of referrals are being given to those who cannot be served?

ANSWER: Local legal services programs typically provide referrals to clients who they cannot serve. Client referrals basically fall into three groups: those who have legal needs and are eligible for legal assistance but cannot be served by the program because of limited resources or priority limits; clients who have legal needs but are not financially eligible for the program's assistance; and those who do not have a legal need. Programs refer those needing assistance to various entities including local and state lawyer referral organizations, social service agencies, local legal clinics and to private attorneys. In some situations a referral is not appropriate.

QUESTION: Has the demand for assistance increased in the last two years?

ANSWER: Yes, however, we cannot provide any reliable statistics at this time. As soon as those statistics become available we will supply them to you.

QUESTION: To what do you attribute the variations in demand?

ANSWER: Variations in demand are primarily due to changes in the local and national economic conditions and substantial changes in the regulations governing programs affecting the poor.

QUESTION: In 1982, the Corporation earmarked an additional $1,000 for each field recipient to provide "training assistance" for client board members. How is this money to be spent? What kind of training do client board members require?

ANSWER: Each field program is required to expend $1,000 or one quarter of one percent of their basic annualized support from the Legal Services Corporation, whichever is greater, on training and support for client eligible board members. This condition addresses only the training of client board members. It cannot be used for any other purpose such as payment to attend board meetings. Furthermore, the condition relates to training which will enable the clients to act effectively as program board members. We also require that the client board members be given a significant role in determining how the training money is utilized. Client board members often need training in non-profit corporation organization, parliamentary procedure, managing attorneys and support staff duties, and how best to present their concerns effectively at board meetings.

QUESTION: Of the IOLTA programs currently in operation or under development, how many would use their funds exclusively for legal assistance for the poor?

ANSWER: IOLTA programs in two states, California and Maryland, have specific requirements that all funds generated will be allocated to civil legal services for the poor. An additional eight states have approved IOLTA programs (several having obtained approval only within the past few weeks). In these states, multiple purposes for IOLTA funds have been designated. Therefore, all have the potential for the governing board to allocate a high percentage to legal services, and in fact a reading of the literature concerning these programs indicates that for the immediate future a high percentage will be allocated to legal services. However, each state is free to change the allocation within certain limits.

QUESTION: How much money is estimated to go to legal aid?

ANSWER: The potential of IOLTA programs is enormous, but there are so many variables that could affect the outcome of IOLTA programs which presently make estimates speculative. The logical measure of the potential fund is Florida, where 2,300 attorneys (approximately 16 percent of attorneys having trust accounts) participate and approximately $1 million is generated annually.

Estimates of the IOLTA program's potential in California range from $2 million to $10 million annually. (These estimates amount to from 10 to 50 percent of California's current LSC funding of $20.1 million.) Since participation in the program is mandatory and 100 percent of IOLTA funds will be allocated to legal services, the California experience will indicate the greatest potential of IOLTA programs' ability to generate funds for legal services.

QUESTION: Do you believe legal services funds raised through IOLTA programs should supplement or replace Federal appropriations?

ANSWER: I view the IOLTA program as a valuable supplement to continued Federal appropriations.

QUESTION: Are any of the Board members whose recess appointments expired in December continuing to be active in relation to the Corporation? If so, which Board members and what are they doing?

ANSWER: Several former board members provided information to the GAO during its review of the Legal Services Corporation.

U.S. INFORMATION AGENCY

STATEMENT OF CHARLES Z. WICK, DIRECTOR

ACCOMPANIED BY:

RONALD L. TROWBRIDGE, ASSOCIATE DIRECTOR FOR EDUCATIONAL AND CULTURAL AFFAIRS

KENNETH Y. TOMLINSON, ASSOCIATE DIRECTOR FOR BROADCASTING

W. SCOTT THOMPSON, ASSOCIATE DIRECTOR FOR PROGRAMS

JAMES T. HACKETT, ASSOCIATE DIRECTOR FOR MANAGEMENT

VICTOR H. LI, PRESIDENT, EAST-WEST CENTER, INC.

JONATHAN W. SLOAT, GENERAL COUNSEL AND CONGRESSIONAL LIAISON

MAURICE J. RAFFENSPERGER, DIRECTOR, OFFICE OF ENGINEERING AND TECHNICAL OPERATIONS, VOICE OF AMERICA

STANLEY M. SILVERMAN, AGENCY BUDGET OFFICER

BUDGET REQUEST

Senator RUDMAN. Our second request is for the U.S. Information Agency. The Agency's request totals $711.4 million which is an increase of $113.8 million over the fiscal year 1983 budget as enacted plus supplementals.

Appearing on behalf of this request is the Director of USIA, Mr. Charles Z. Wick. Welcome, and you may summarize your statement. Your entire statement will be incorporated into the record.

SUMMARY STATEMENT

Mr. WICK. Thank you, Mr. Chairman and members of the subcommittee. This is a summarization of my statement for the record.

I am pleased to be here today to present the appropriation request for the U.S. Information Agency for fiscal year 1984, as well as the supplemental request for fiscal year 1983.

Our request in fiscal year 1984 totals $711.4 million, which is an increase of $113.8 million over the 1983 amounts already enacted or pending in supplementals.

COMPETITION OF IDEAS

Today, as never before, we are engaged in a fierce competition of ideas. Our adversary is the Soviet Union. Our strengths are the truth and our own ideals. Today, in a world where freedom is under attack, the idea of human liberty and the idea of America are more compelling and attractive than ever. But, we cannot and must not remain passive. The stakes are too high.

The Soviets are well equipped to wage a war of ideas, and have increased their efforts even more. They have also changed the nature of the war. I refer to their campaign of so-called "active measures" and disinformation directed against the United States. The Soviet Union far outdistances us in resources—not merely in money, but in personnel and level of activity as well. It is startling to note that the Soviets are estimated to spend more on jamming our broadcasting the truth to the U.S.S.R. and Eastern Europe than the Voice of America's worldwide budget.

Frankly, in many areas we are behind in the competition of ideas. Unless we reinforce our efforts, we will continue to lose ground and our national interest will suffer. The Reagan administration understands this, and with the help of Congress, we can pull ahead and eventually win the struggle for ideas.

PROJECT DEMOCRACY

Along these lines, on June 8, 1982, President Reagan, in his address to the British Parliament, announced the intention of the United States to make a major effort to "foster the infrastructure of democracy * * * which allows a people to choose their own way, to develop their own differences through peaceful means."

The President thus laid the groundwork for a long-term, positive program by the United States to advocate the principles of democracy, and to support those people and institutions committed to democratic development. The United States will help build and reinforce the bonds based on shared values between our peoples and other nations.

Project Democracy will be a bipartisan venture, involving both Government and private organizations.

As Secretary Shultz told the House Foreign Affairs Committee on February 23, the foreign policy considerations involved in these programs transcend any single agency. USIA, the lead agency, will work closely with State and AID in the development and implementation of the programs.

Finally, and of central importance, is our conviction that what we are proposing is of broad bipartisan concern. This is not a slogan, but a reality. If this project is to have meaning, it must have broad support because it is one which we want to see continue from our administration to the next and onward.

PRESIDENT'S INTERNATIONAL YOUTH EXCHANGE INITIATIVE

At the same time we are seeking to develop new and innovative exchange programs which utilize the resources of the private sector as well as the Government. For example, the new President's International Youth Exchange Initiative, a project already underway, is designed to reach the successor generation of the Versailles economic summit countries. President Reagan announced this initiative in May of 1982, and it has the enthusiastic support of the heads of state of Canada, France, the Federal Republic of Germany, Italy, Japan, and the United Kingdom. Over the next 3 years youth exchanges will be increased by 15,000.

VOICE OF AMERICA MODERNIZATION

As to radio, it is our most neglected activity. Over the years, VOA has added a language program here, a few program staff people there. However, the physical plant required to transmit America's voice to the world is in deplorable condition, affecting the vitality and quality of its voice.

On July 19, of last year, the President announced that "We intend to move forward consistent with budgetary requirements with a program to modernize our primary means of international communication, our international radio system." At that time, he observed that "The Voice of America, Radio Free Europe and Radio Liberty have been neglected for many years. Their equipment is old and deteriorating, their program resources strained. Little has been done to counter the jamming that has intensified in recent years."

I would now like to briefly discuss the Agency's specific resource requests.

1983 RESOURCE REQUESTS

The Further Continuing Appropriations Act (Public Law 97-377) provides $545.4 million for USIA programs and operations in fiscal year 1983. Within that level, we plan to shift funds in the radio construction and salaries and expenses accounts to cover several new urgent requirements, principally to conduct urgent engineering analyses to identify and examine the overall technical performance requirements of the Voice of America on a worldwide integrated systems basis; to develop a fiscal year 1983 spending plan for private sector exchange programs to meet the requirements of the Further Continuing Appropriations Act and accompanying report; to cover the Williamsburg Economic Summit; and to absorb the costs of consolidating USIA offices in Washington, to meet added salary requirements, and to enhance other priority programs.

The Agency is also seeking fiscal year 1983 supplemental appropriations totaling $52.2 million to provide $9.5 million to fund the Agency's Federal pay raise and related costs; $22.7 million to initiate the urgent correction of deficiencies in Voice of America staff and program operations; and $20 million to launch Project Democracy.

1984 REQUEST

The Agency's 1984 appropriation request totals $711.4 million, an increase of $113.8 million over the amount provided by the 1983 Continuing Appropriations Act for comparable programs and pending supplementals.

The major items of change are:

$21.4 million to cover projected 1984 inflationary increases and other built-in changes for all Agency programs and activities.

$50.8 million to cover full-year costs of the proposed 1983 program supplementals consisting of $5.8 million to complete urgently needed Voice of America staff and program improvements and $45 million to expand Project Democracy.

$23.1 million to perform advanced engineering and technical development studies to initiate a 5-year plan to modernize and expand the Voice of America's transmitting facilities.

$18.5 million to expand and enhance overseas missions posts, television satellite programs, and equipment in the Washington studios, VOA broadcasts to the Soviet Union and Eastern Europe, youth exchange programs, student counseling, English teaching programs, wireless file, research studies, first-year obligations for U.S. participation in the international exposition in Vancouver, Canada, scheduled to open in May 1986, and representation funds.

CONCLUSION

Mr. Chairman and members of the subcommittee, free and open societies are in danger. The ideals and values which underlie our national purposes are under attack by a potent Soviet propaganda and disinformation campaign.

USIA, a critical component of this country's national security system, must meet the challenge. The administration recognizes this and the vital need for this Agency's fiscal year 1984 budget request of $711.4 million.

I ask for your continued support and assistance in this effort. I should like to thank the members of this subcommittee for their understanding and cooperation over the past year.

I appreciate the time you have given me today. I would be pleased to respond to any questions you may have.

[The statement of Charles Z. Wick follows:]

PREPARED STATEMENT OF CHARLES Z. WICK, DIRECTOR, U.S. INFORMATION AGENCY

Mr. Chairman, Members of the Subcommittee:

I am pleased to be here today to present the appropriation request for the United States Information Agency for Fiscal Year 1984, as well as the supplemental request for fiscal year 1983.

This Agency's request in FY 84 totals $711.4 million, which is an increase of $113.8 million over the 1983 amounts already enacted or pending in supplementals. This is a large increase, but one which we believe is fully justified in the current world climate.

Today, as never before, we are engaged in a fierce competition of ideas. Our adversary is the Soviet Union. Our strengths are the truth and our own ideals. Today, in a world where freedom is under attack, the idea of human liberty and the idea of America are more compelling and attractive than ever. But, we cannot and must not remain passive. The stakes are too high.

This competition is not new -- it has been going on since the end of World War II. Our strategy, however, has remained virtually unchanged. For far too long, we have been in the position of reacting to the other side. It is time to take the initiative to make our case boldly and well. It is time to recognize USIA as an important component of the American foreign affairs community. Indeed, USIA is on the cutting edge of the struggle for men's minds.

The Soviets are well equipped to wage a war of ideas, and have increased their efforts even more. They have also changed the nature of the war. I refer to their campaign of so-called "active measures" and disinformation directed against the U.S.

On February 17, for example, The Washington Post carried a story describing how the Soviet-supported Communist press in India had recently escalated its long-standing disinformation campaign against the United States. This was an apparent attempt to turn the Third World against us before the start of the Non-aligned Nations Summit, held in New Delhi earlier this month.

That is only the tip of the iceberg, not only in India but throughout the world. The Soviet Union far out-distances us in resources -- not merely in money, but in personnel and level of activity as well.

The Soviets focus on young people, and they not only attend but organize conferences of the world's youth. The Soviets aid local Communist parties around the world. It is startling to note that the Soviets are estimated to spend more on jamming our broadcasting the truth to the U.S.S.R. and Eastern Europe than the Voice of America's worldwide budget.

Radio Moscow has thirty-seven state-of-the-art 500 KW (super-power) transmitters, while the Voice of America has six, each made by coupling 2-250 KW's into a 500 KW transmitter. Radio Free Europe and Radio Liberty have none. The Soviet Union broadcasts in eighty-two languages; VOA and RFE/RL combined broadcast in forty-eight languages.

Frankly, in many areas we are behind in the competition of ideas. Unless we reinforce our efforts, we will continue to lose ground and our national interest will suffer. The Reagan Administration understands this, and with the help of Congress, can pull ahead and eventually win the struggle for ideas.

As to Project Democracy, about which there have been many questions, on June 8, 1982, President Reagan, in his address to the British Parliament, announced the intention of the United States to make a major effort to "foster the infrastructure of democracy...which allows a people to choose their own way, to develop their own differences through peaceful means."

The President thus laid the groundwork for a long-term, positive program by the United States to advocate the principles of democracy, and to support those people and institutions committed to democratic development. The United States will help build and reinforce the bonds based on shared values between our peoples and other nations.

Project Democracy will be a bi-partisan venture, involving both government and private organizations. All Americans have an interest in promoting freedom and democracy throughout the world, and Project Democracy will work with a wide range of organizations and institutions to build linkages with foreign counterparts. Political parties, unions, businesses, universities, state and local governments, media, service organizations, women's groups, ethnic and religious organizations, working with their counterparts overseas, may prove to be the most effective means of strengthening democracy and promoting friendship and cooperation with other nations.

As Secretary Shultz told the House Foreign Affairs Committee on February 23, the foreign policy considerations involved in these programs transcend any single agency. USIA, the lead agency, will work closely with State and AID in the development and implementation of the programs.

Finally, and of central importance, is our conviction that what we are proposing is of broad bi-partisan concern. This is not a slogan, but a reality. If this project is to have meaning, it must have broad support because it is one which we want to see continue from our administration to the next and onward.

What this means, among other things, is that we welcome your ideas as well as your support both in the development of the project and its implementation. We will keep no secrets. We want to move ahead through mutual support and mutal confidence.

At the same time we are seeking to develop new and innovative exchange programs which utilize the resources of the private sector as well as the government. For example, the new President's International Youth Exchange Initiative, a project already underway, is designed to reach the successor generation of the Versailles economic summit countries. President Reagan announced this initiative in May of 1982, and it has the enthusiastic support of the heads of state of Canada, France, the Federal Republic of Germany, Italy, Japan, and the United Kingdom. Over the next three years youth exchanges will be increased by 15,000.

President Reagan has established from the private sector a Council for International Youth Exchange to encourage the American private sector to join in a partnership to help promote the Initiative. The Council is made up of top corporate executives and education and foundation leaders from across America. It is a classic free enterprise undertaking between the private sector and the government. The Council has pledged to raise $10 million to match the U.S. Government's contribution of a like amount. The Council is already well on the way to achieving its goal. It has received donations of over $2 million. The President's International Youth Exchange Initiative buttresses the Agency's ongoing exchange programs, filling a long neglected gap in international exchange efforts.

As to radio, it is our most neglected activity. Over the years, VOA has added a language program here, a few program staff people there. However, the physical plant required to transmit America's voice to the world is in deplorable condition, affecting the vitality and quality of its voice.

On July 19th of last year, the President announced that "we intend to move forward consistent with budgetary requirements with a program to modernize our primary means of international communication, our international radio system." At that time, he observed that "the Voice of America, Radio Free Europe and Radio Liberty have been neglected for many years. Their equipment is old and deteriorating, their program resources strained. Little has been done to counter the jamming that has intensified in recent years."

This past year has seen a continued and concerted effort at the Voice of America to enhance its reputation for reliability, objectivity and balance. We are seeking to communicate the "voices" of America by broadcasting information showing the diversity and plurality of this nation.

An increased amount of editorial opinion to explain America's policies to people in other countries is being broadcast. VOA has established an Office of Audience Relations to promote overseas awareness of VOA, and to analyze audience reaction to VOA programs. It is our intention to make programs more relevant and interesting to VOA's listenership.

Extensive efforts to carry Administration messages through the use of satellite television transmissions directly to foreign audiences without distortion or filtering has been made possible through the communications technological revolution. Presidential speeches and video dialogues with cabinet officers are being transmitted by satellite. Satellite television is now in the forefront of our public diplomatic efforts in support of American policies.

Additional funds are desperately needed to hire trained engineers. The task of structuring, almost from the ground up, a comprehensive, world-wide, radio transmission system is formidable.

Professionals are being recruited to fill the many existing vacancies in our engineering division and to staff the new positions requested in our supplemental proposal. VOA Engineering's first task will be to carry out a comprehensive systems analysis of the components of the worldwide VOA communications network -- antennas, technical transmission requirements, power generation systems -- the requirements for a worldwide operations center and network control -- and an investigation into station characteristics and locations to fill existing coverage gaps. With the benefit of such a comprehensive study we will be able to make decisions about new VOA construction projects that will be most efficient and more cost-effective.

USIA is mandated to tell the truth about the policies and objectives of the United States to the world and at the same time to counter the Soviet Union's growing global campaign of propaganda and distortion. USIA is fulfilling these directives by initiating innovative projects and by strengthening the traditional programs that have continued to prove effective.

During the past year we were able to begin the long sought Agency move to our new USIA building. This consolidation of most of the Agency will have a most beneficial effect on the efficiency of all Agency elements.

The Agency's resource requests are as follows:

The Further Continuing Appropriations Act (Public Law 97-377) provides $545.4 million for USIA programs and operations in FY 1983. Within that level, we plan to shift funds to respond to new program opportunities and requirements that have developed since the original FY 1983 budget was presented. These changes, which were presented in the detailed justifications, consist of:

(1) the reprogramming of $17 million within the

Acquisitions and Construction of Radio Facilities account to conduct engineering analyses to identify and examine the overall technical performance requirements of the Voice of America on a worldwide integrated systems basis before we embark on a multi-year plan to modernize and expand VOA's transmitting facilities;

(2) the development and approval of an FY 1983 spending plan for Private Sector Exchange Programs to meet the requirements of the Further Continuing Appropriations Act and to accommodate the intent of the language of the Conference report that accompanied that Act; and

(3) further shifts within the Salaries and Expenses account necessary to absorb the costs of consolidating USIA offices in Washington, to meet added salary requirements, and to enhance other priority programs.

The Agency is also seeking FY 1983 supplemental appropriations totaling $52.2 million to meet the following requirements:

(1) $9.5 million to fund the Agency's Federal pay raise costs, the Medicare Hospital Insurance Tax, and health benefit program costs in FY 1983;

(2) $22.7 million to initiate the urgent correction of deficiencies in Voice of America staff and program operations noted in a recent NSC study; and

(3) $20 million to launch Project Democracy, a strongly focussed effort to support and strengthen democracy abroad.

The Agency's 1984 appropriation request totals $711.4 million, an increase of $113.8 million over the amount provided by the 1983 Continuing Appropriations Act for comparable programs and pending supplementals. The specific appropriations requested in 1984 are: Salaries and Expenses, $634.4 million; Salaries and Expenses (Special Foreign Currency Program), $10.5 million; Acquisition and Construction of Radio

Facilities, $48.0 million; and the Center for Cultural and Technical Interchange between East and West, $18.5 million.

The overall increase of $113.8 million requested in 1984 will enable the Agency to serve the nation's security interests more effectively and to meet the following specific requirements:

-- $21.4 million to meet net added costs of continuing the 1983 program level throughout 1984, primarily overseas wage and price increases, completion costs for U.S. participation in the international exposition scheduled to open in Tsukuba, Japan, in March 1985, and other built-in changes.

-- $50.8 million to cover full-year requirements of the proposed program improvements and expansions that will be initiated under the 1983 supplemental appropriation request, consisting of $5.8 million to complete the urgent correction of deficiencies in Voice of America staffing and programs as identified in a recent NSC study and $45 million to expand Project Democracy.

-- $23.1 million to perform advanced engineering and technical development studies to initiate a five-year plan to modernize and expand the Voice of America's transmitting facilities to provide a global network that is capable of meeting current public diplomacy objectives and that has sufficient flexibility to enable VOA to respond quickly to international developments and changing foreign policy objectives.

-- $18.5 million to enhance selected Agency activities, consisting of $5.8 million for Overseas Missions Posts to restore some past staff cuts, open new posts, and augment English teaching and other activities; $3.2 million to expand television satellite programs and to modernize TV equipment in the Washington studios; $3.2 million to expand VOA broadcasts to the Soviet Union and Eastern Europe; $3.0 million to expand youth exchange programs, student counselling, and English teaching programs; and $3.3 million to improve Wireless File reception, expand research studies, cover first-year obligations for U.S. participation in the international exposition in Vancouver, Canada, scheduled to open in May 1986, and to provide vitally needed increases in representation funds. The latter requirement, totaling only $155,000, will greatly relieve the financial burden on our officers in the U.S. and abroad, enable them to host important negotiations and to reciprocate reasonably for the many acts of hospitality offered by their counterparts.

We appeared before the Senate Committee on Foreign Relations on March 2 and the House Committee on Foreign Affairs on March 3 and 17 to discuss authorization legislation and related matters.

Mr. Chairman and Members of the Subcommittee, free and open societies are in danger. The ideals and values which underlie our national purposes are under attack by a potent Soviet propaganda and disinformation campaign.

USIA, a critical component of this country's national security system, must meet the challenge. The Administration recognizes this and the vital need for this Agency's fiscal year 1984 budget request of $711.4 million.

I ask for your continued support and assistance in this effort. I should like to thank the Members of this Subcommittee for their understanding and cooperation over the past year.

I appreciate the time you have given me today. I would be pleased to respond to any questions you may have.

PROJECT DEMOCRACY

Senator Rudman. Thank you, Mr. Wick, I appreciate your statement.

USIA proposes a $65 million program for fiscal year 1984 to support a democracy and public diplomacy program to advocate the principles of democracy and support those people and institutions committed to democratic development.

What is Project Democracy and how will that project differ from current USIA programs, particularly the educational and cultural exchange programs?

Mr. Wick. In the educational and cultural exchange programs, which include the Fulbright programs, Hubert Humphrey Fellowships, the International Visitors program, and the Private Sector Programs, we will operate under the same guidelines presently used for these programs. These programs will be enhanced to a significant degree. Under Project Democracy the emphasis will be on training leaders in media, universities, and other academic institutions for increased focus on the methodologies that are involved in achieving the democracy to which they aspire. Essentially, the educational programs will operate under the same guidelines as they now operate and will be scrutinized not only by our internal oversight groups but by the blue ribbon voluntary academic committee that was established about 1 year ago.

Senator Rudman. Will it remain essentially the same as the regular program?

Mr. Wick. Yes.

Senator Rudman. My question is just a general question. Could you essentially obtain objectives of the project by expanding and increasing the funding of the existing programs you have? Isn't that really what you are doing with a few more subdivisions out there?

Mr. Wick. Yes; we are enhancing those particular programs that have been tested in the past and have been proven to be effective methods of promoting democratic institutions. The main focus of Project Democracy is leadership training for those who will promulgate and operate the democratic institutions. Essentially, this will include leadership training, education, information, and ideas, strengthening ties with individuals and institutions and the strengthening of democratic institutions.

In educational and cultural affairs, for example, we will enhance English teaching, book publishing, American studies in universities, scholarships, and fellowships. In the strengthening of democratic institutions, we will deal with the leadership of unions, the media, universities, political parties, legal, business and judicial groups, as well as religious and community groups.

ADMINISTRATIVE AND PROGRAM COSTS

Senator Rudman. How much of the $65 million is for administrative costs and how much for the program?

Mr. Wick. Just under $1.2 million would be for administrative costs, comprising a small project coordination staff, traveling overseas, moving families, and that kind of thing. It amounts to only 1.8 percent of the $65 million.

Senator **Rudman**. Of course, regardless of how it is portrayed, it is viewed by some as a major propaganda program. What assessments have you made to quantify the impact on existing programs which have always been viewed around the world as being done with a high degree of professionalism and credibility problem that is going to leak over and hurt these other programs in some way?

Mr. **Wick**. I think if it does it will be our fault for not having done enough enunciation on the nature of the program and how it will operate. We have some staff already working on rigorous analyses and development of guidelines that will operate in each of these particular areas to assure that there will be bipartisan support for the programs. Just as we have partisan tugs in our election system here, when an election is finally resolved, we have a change of government without the militia or anybody else seeking to enforce it. We all share those values in this country and these are the values that we seek to be able to allow others to be able to enjoy. For example, I was in Brazil several weeks ago. We had a conference of public affairs officers in South America. About 1 week ago Brazil celebrated the implementation of their first free election, since 1964, of governors and legislators in 22 states. At the request of the secretary of their senate, a delegation will be coming to the U.S. Senate to see how our Senate staffs function. We can assist them by giving them some demonstrations and suggestions as to how their staffs should work.

Senator **Rudman**. I am not sure we are a role model they will want to follow.

Mr. **Wick**. Well, I guess they feel we probably made it work for a few years with all the warts, but perhaps they wish to learn from our role model. But in any event, these are the kinds of leadership opportunities that will be provided.

Insofar as the propaganda that has been alleged in our free societies, we get those allegations sometimes before we even formulate a plan and announce it. That is a part of our society. But I am sure that nobody who makes an examination of our proposals can allege that the programs are propagandistic. The guidelines will insure that there is nothing propagandistic in this proposal.

PROMOTION OF U.S. TOURISM

Senator **Rudman**. Are your television and radio activities and missions overseas promoting America as a place to visit as well as U.S. foreign policy? I think, as we can all agree, the best way to understand America is to have them come here and visit and see for themselves. Are you doing that? Are you actively promoting that?

Mr. **Wick**. We are not promoting tours, Senator, but in carrying out our basic mission, our public affairs officers, information officers, and cultural affairs officers, are intimately involved with foreign media, various leaders, organizations, and mass groups. By communicating 5 days a week various aspects about the United States through our magazines, wireless file, seminars, the Voice of America, and television this obviously does stimulate a great deal of interest in America. To the extent the USIA is an appropriate agency, we do assist people who want to come over here.

GAO REPORT ON THE VOICE OF AMERICA

Senator **Rudman**. On July 29, 1982, the GAO issued a report on the Voice of America which addresses the existing problems. It listed a number of problems they allege to be very serious at VOA. We are now being asked to start a number of new initiatives at the Voice.

Can you tell us how we can be sure that the Voice of America will correct its problems before launching this new effort and what are you doing about the GAO report?

Mr. **Wick**. I would like to make a comment. We found the GAO report very helpful and disagreed with very little of its findings. To the extent that the GAO report in certain areas might have reflected incompetence on our part, we are taking steps that hopefully will correct that.

In regard to our operations, certain aberrations were identified that we are addressing to the satisfaction of GAO. We are also taking steps to profit by their suggestions as we plan an upgrading and modernization of our transmitting facilities. We feel that some of the past Jerry-built transmitters and antennae were done without the benefit of a systematic overall worldwide engineering plan. We seek to correct that now.

Mr. **Tomlinson**. I would like to broaden the responses the Director has given. Well before I arrived at the Voice of America in December, VOA was working to implement the points in the GAO report. For example, in the area of engineering, the point of the GAO report is that the absence of an engineering organization that can provide effective management and a lack of comprehensive professional planning, has prevented the effective operation of a worldwide broadcasting organization. We are well on our way to establishing such an organization and if we are fortunate enough to receive the supplemental funds we have requested to improve and strengthen VOA program and engineering operations, we will be able to achieve this important goal.

In the programing area GAO pointed out some duplication and overlapping. We feel we have made progress. GAO asked us to be more specific in producing program management and we have done a good deal of this, I am told, to your satisfaction. We have increased our program review process and I believe that we are well on our way to meeting the criticisms of the GAO report. I might say that the Director and I feel that upgrading basic management in the Voice of America is one of our most important priorities and this is something our new deputy, Mel Levitsky, is going to be concentrating on in the weeks ahead.

LONG-RANGE PLANS FOR VOA EXPANSION AND ENHANCEMENT

Senator **Rudman**. I assume that you are developing long-range plans for expanding the program and technical operations and enhancing them?

Mr. **Tomlinson**. Absolutely. The area of long-range plans we have in the programing area—I will be brief on this, but I will be happy to answer your follow-up questions. We have very definite ideas in the direction of Voice of America programing.

Senator RUDMAN. Briefly tell us some of those, 5 years out, 10 years out.

Mr. TOMLINSON. I think that 5 to 10 years out, you are going to see a Voice of America programing that is going to more reflect the voices of America. We want to have the actual voices of America's leaders in every field on the air. It is amazing when you compare programing which involves in-house people, seeking to convey the thoughts of others versus having those very voices much like you have them in here, all sides of the American political spectrum, sending the message forth to the world what this country is all about. In the engineering area, we, of course, need to get the Voice of America's signal clearly into important sections of the world. We need to place transmitters where this can be done. We need to move to medium wave AM broadcasting to areas of the world where shortwave receivers are not used as much as they are in the Soviet Union. We need modernization and automation. These plans are being carefully developed to avoid the mistakes of the past which resulted from insufficient front-end engineering. We have a whole host of stories over the last decade where we simply didn't stop to plan adequately and the Director and I have conveyed this to our head of engineering. We all underline it. Even if we sacrifice a little time, and I don't think we are going to sacrifice much time, but even if we do, we have to plan first before we put these things into operation.

RADIO MARTI

Senator RUDMAN. Mr. Wick, if Congress authorizes Radio Marti to use VOA's Marathon relay station to broadcast to Cuba, will this be in addition to the transmitter site built by the U.S. Navy for Radio Marti?

Mr. WICK. I don't know what the plans are for use of the transmitter site by Radio Marti. However, insofar as the Voice of America transmitter is concerned, we want to cooperate in any way that will benefit the interest of the U.S. Government. Currently, the Voice of America transmits 5½ hours of its general Latin American broadcast schedule to Cuba via the Marathon transmitter. These and other VOA broadcasts to other areas of the world are designed to tell the world about America and to support U.S. foreign policy interests. However, the mission of Radio Marti will be to tell the Cubans what is happening in Cuba.

Senator RUDMAN. If they use that, would that be a 24-hour operation?

Mr. WICK. I don't know. We have nothing to do with Radio Marti.

Senator RUDMAN. If it is deemed appropriate for Radio Marti to use VOA's facilities, then it appears that the arguments against VOA and Radio Free Europe/Radio Liberty sharing existing facilities or future facilities is no longer valid. Can you explain how these two circumstances may differ?

Mr. WICK. I don't quite understand the assumptions behind the question. I don't think they will differ at all. But, that is a decision that will have to be made in the light of the best interest of the U.S. Government.

ADDITIONAL COMMITTEE QUESTIONS

Senator **Rudman**. We have a number of questions that a number of the members of the committee wanted to ask this morning but because of committee conflicts they were not able to be here. Senator Hollings has some. I think what I will do is ask you to answer them for the record. I don't have any other questions.

We thank you for your very candid testimony this morning from both yourself and Mr. Tomlinson and wish you well.

Mr. **Wick**. Thank you. I would like to thank this committee for the prompt responses to our reprograming requests. It is very heartening, very helpful and we appreciate it.

[The following questions were not asked at the hearing, but were submitted to the Agency for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR HOLLINGS

1983 VOICE OF AMERICA SUPPLEMENTAL

QUESTION:

The Administration has resubmitted a supplemental request totaling $22,700,000 to improve VOA's programs and facilities. One visit to the VOA facilities is convincing enough of the need for the physical improvements, as well as most of the 392 additional positions requested. However, before we embark on a major improvement of the program staff, we ought to determine the role of VOA.

VOA Director Tomlinson in an article in the February 20th WASHINGTON POST said, "The Voice of America should reflect the Voices of America." That has been the long held view of the role of VOA. Why then do we need to reopen the Rome bureau to provide coverage of the Vatican, Italian culture and the Eurocommunist movement?

ANSWER:

One of the primary reasons people around the world listen to the Voice of America is for news -- reported fully, accurately, and in a timely fashion. Few spots on the face of the globe have produced more significant news in recent years than has Rome. Yet VOA was forced to close its Rome bureau because of economy reasons in 1978, on the very day Pope John Paul II was selected.

To our audiences around the world -- but most particularly to our massive listenership in Eastern Europe -- the pronouncements of Pope John Paul are extraordinarily important. Allegations of an international plot behind the attempted assassination of Pope John Paul II have produced numerous news stories extremely significant for our audience.

Although we rely on stringers as well as reports from wire services and commercial media, the interests of our audience often go far deeper than the coverage given Rome by international news services. In recent years in particular, reporting for the domestic American audience does not carry the depth that we so often need. There also is a question of immediacy. When there is a significant break in a story in Rome we need access to a correspondent whose allegiance is to our needs first. All too often, the size and respect of our audience is related to our ability to deliver news about world events in a timely fashion. This we can do best from the most significant places in the world only if we have a correspondent in place and ready to respond to the needs of our audience.

The plan to re-establish a bureau in Rome would greatly enhance news coverage in one of the important news centers of the world. In addition to "coverage of the Vatican, Italian culture and the Eurocommunist movement," the correspondent in Rome would be tasked with reporting on major political, economic and strategic developments affecting bilateral relations, regional affairs and vital international organizations such as the European Community and the crucial southern flank of NATO. The Rome-based correspondent would also be expected to travel to, and report in depth on, major developments in countries along the northern perimeter of the Mediterranean.

QUESTION:

Funds are requested for "refamiliarization" travel of VOA correspondents to their target areas/countries after long periods in the U.S. If we are supposed to be portraying America to the world, shouldn't the correspondents be seeing the United States instead of foreign countries?

ANSWER:

Certainly we recognize the importance of our international broadcasters travelling in the United States. Indeed one of the benefits of the mobile vans we will be using is to get our foreign language broadcasters out in the American countryside. But it is also important for our foreign broadcasters to return from time to time to the areas to which they broadcast.

This enables them to keep up to date with changes in the language, politics, and cultures of the target areas. Such "refamiliarization" is widely practiced by other major international broadcast organizations. The program is essential to effective communication, especially cross-cultural communication.

In addition to foreign area specialists, the Voice of America has many staff members who report or write about the United States. These VOA programming employees are constantly reading about the U.S., travelling, and taking American studies courses to fulfill an important mandate of the VOA Charter for our listeners.

QUESTION:

VOA hungers to be another BBC, but BBC is a worldwide news organization comparable to Reuters, AP, or even CBS. In view of the Reagan Administration's emphasis on getting the Government out of things that the private sector can do, why don't we leave the worldwide news broadcasts to CBS, BBC, and the others, and get VOA back to telling the world about America.

ANSWER:

The Voice of America has, for a considerable number of years now, been viewed by international listening audiences, by professional counterparts in the BBC, Deutsche Welle and elsewhere as a worldwide news broadcasting organization of great stature. The BBC World Service is not, strictly speaking, a portion of the private sector. Nor is it, the wires services or the networks designed to, or mandated to adhere to the VOA charter signed into law in 1976. The news is a key, indeed a singular element, in attracting audiences worldwide; through it, and through a wide variety of other programming, we tell the world about America.

The top American networks, in their major evening news programs, present a package they have themselves described as something just beyond a "headlines service". Theirs is a distinctly American audience. This is reflected in their news selection, choice of words and phrases and in their presumption of certain levels of knowledge on the part of the listener. They do not broadcast on short wave. Nor do they focus sufficiently on developments elsewhere in the world that are of great significance to overseas audiences. Network news selection, rightly, is designed for American audiences, but the resulting programs would be regarded as insular, irrelevant, parochial and inconsequential by many listeners overseas on many occasions.

A significant percentage of listeners are attracted to VOA's presentation of relevant and important world news they have come to know is accurate, comprehensive and authoritative. With its wide variety of programming, the VOA then succeeds in explaining official U.S. positions on major developments, presents U.S. positions on major developments, presents U.S. policies clearly and effectively and also presents responsible discussion and opinion on these policies. Through these programs, and many others representing significant American thought and institutions, the VOA adheres to all three charter mandates and successfully maintains a very large listening audience which hears a great deal about America. No group or collection of organizations in the American private sector, or abroad, is geared to do this.

QUESTION:

The supplemental includes $2,300,000 to study the use of Direct Broadcast Satellite and other technology.

-- What were the results of the $300,000 reprogramming approved on March 1, 1982 for research on alternative relay sites and the use of Direct Broadcast Satellites?

-- Would not the use of Direct Broadcast Satellites alleviate your basing problems for transmitters overseas, such as in Greece?

ANSWER:

An alternative site study, including possible use of Direct Broadcast Satellites (DBS), was awarded in February 1982 to the Massachusetts Institute of Technology (MIT) for $58,000. MIT was also asked to analyze suggestions contained in a National Security Council (NSC) study, since these comments could have a major impact on the Voice's current and future operations. MIT's final report was received in February 1983 and provides confirmation by technical experts of the steps VOA is taking in planning for the future.

A contract was also awarded ($16,500) to study problems related to the transmission of programs from Washington, D.C. to the domestic Relay Stations. The NSC and General Accounting Office (GAO) reports also impacted on these efforts. After these reports were received further contract work in this area was deferred. The analysis of the global VOA system that is scheduled to begin in FY 83 incorporates the domestic transmission requirements, but in the context of a global analysis. The remainder of the $300,000 will be applied in FY 83 to obtain a better technical understanding of the relative potential feasibility of a "super power" DBS and a "super power" over-the-horizon ground based transmitter using a phased array antenna.

Will DBS replace the earth stations? Although we recognize that there are certain potential advantages to DBS as opposed to some of our earth based facilities, there are a number of complex legal, cost and technical issues that must be resolved in order realistically to consider a DBS as a replacement for earth based transmitters. The Agency in conjunction with NASA is vigorously pursuing an indepth analysis of the feasibility of using DBS to reach some limited audience areas that may be difficult to reach from available earth based sites. Realistically speaking, VOA believes that earth based transmitting facilities will continue to be the primary means of communicating with its listeners well into the 1990's.

EDUCATIONAL AND CULTURAL EXCHANGES

QUESTION:

The 1984 budget includes reductions of more than $7,000,000 in the exchange programs. This is a severe setback to the additional momentum that these programs gained over the last few years. What was USIA's 1984 request to the OMB for the exchange programs?

ANSWER:

USIA's 1984 OMB request for Academic and International Visitor Exchanges, the Humphrey Fellowship Program, and the Private Sector Program totaled $124,363,000.

QUESTION:

Will USIA have any difficulty in awarding the funds available for exchanges in fiscal 1983?

ANSWER:

At this point in the fiscal year, it appears that we will be able to award all funds currently available.

QUESTION:

What are the "mandatory cost increases" amounting to $5,355,131 in the exchange program?

ANSWER:

These increases are for domestic and overseas price increases related to the Academic and International Visitor Programs. The total increase consists of the following:

$4,955,625 for cost increases associated with the Academic Exchange Program and International Visitor Program;

$173,439 for cost increases associated with the Humphrey Fellowship Program;

$195,487 for cost increases associated with Student Support Services activities;

$3,713 for cost increases in support of activities of the Board of Foreign Scholarships; and

$26,867 for cost increases associated with Agency activities in support of the Study of the United States.

QUESTION:

USIA is proposing a pro-rata reduction to each of the different geographical areas of the exchange program. Instead of making nearly one-third of the grants to Western Europe, why don't we follow the lead of the Communists and concentrate on the Third World countries?

ANSWER:

There are compelling reasons for supporting exchange programs in almost all parts of the world. Indeed, of all areas, Europe is likely the single most critical in terms of American interests. There is increasing evidence that the common bonds that strengthen the Western alliance are threatened as "successor generations" on both sides of the Atlantic develop their own, not necessarily consistent, assumptions and world views. With the Eastern Bloc countries, exchanges often are the only means by which meaningful communication between their people and ours can take place in the face of obstruction and distortion by their governments.

Another reason for the large number of grants in Western Europe is the very large financial support to the Fulbright Academic Exchange Program by governments in that area. Our Fiscal Year 1984 budget request assumes foreign government contributions of $11 million, $8 million of which is anticipated from Western European countries.

Finally, although Eastern Bloc exchange activity with the Third World far exceeds our own, their exchange activity among their own allies is also large and supported primarily by Bloc governments. The Soviets also target a large proportion of their exchange resources to Europe. We judge that the disparity between their support for exchanges with the Third World and our own is more a function of the vastly greater resources the Soviet Union and its allies make available to exchanges than to a difference in priorities.

PRIVATE SECTOR PROGRAMS

QUESTION:

According to Jack Anderson, USIA awarded a $170,000 contract to the Mid-America Committee for International Business and

Government Cooperation. The purpose of this contract was to teach Latin American and Arab officials how to handle American newspaper and T.V. reporters, and was taught by the former publicity man of Anastasio Somoza. Who thought up this project?

ANSWER:

The project concept was developed and submitted by the Mid-America Committee.

QUESTION:

When did it become the duty of the USIA to protect foreigners from our press?

ANSWER:

USIA is not involved in any way with efforts to improve the image of foreign governments within the United States. Mr. Anderson's article misstates the purpose of the seminar by describing its purpose in this way. Later in the article he does mention the actual purpose of the program as "an effort to educate foreign officials in the unfamiliar workings of a free press." Giving foreign press officials an understanding of the operations of a free press and its integral role in a free society is consistent with USIA's mission.

QUESTION:

Why didn't the governments of El Salvador, Haiti, Bolivia, Ecuador, and Barbados contract directly with the outstanding public relations firm, here in Washington and elsewhere in the United States, for advice on how to deal with our press?

ANSWER:

As discussed above, the purpose of the project was not to advise these or other governments on how to deal with U.S. media, but rather to engage the participants in a substantive exploration of the workings of a free press. The Mid-America Committee did arrange for a broad range of contacts with American media representatives precisely because American journalism is free and open.

QUESTION:

Another grant to the Center for Education and Research to expose "future leaders" of Guatemala to the marvels of the capitalist system reportedly included faculty payments of $600 a day. A similar grant to Ernest Lefever's Ethics and Public Policy Center to discredit the peace movement provided $1,000 and $1,500 fees for speakers. Who were these people who were paid such fees and how do the payments compare to what they draw in their usual occupations?

ANSWER:

The grant to the Center for Education and Research to which Mr. Anderson referred was approved but has not been awarded. The purpose of the proposed grant was to expose the participants to an exposition of the free enterprise system as well as techniques of strategic management. The grant proposal included faculty honoraria at an average of $600 per day for the duration of the project. Because more than one lecture would have been presented each day, we estimated an honorarium per lecture ranging from $150 to $300, including time for preparation. Because no grant has been awarded, no honoraria have actually been paid and we are unable to address specific recipients' salaries in their normal occupations.

The grant awarded to the Ethics and Public Policy Committee was for the purpose of fostering a free and open discussion among American and European religious leaders and knowledgeable spokespersons in security affairs who hold diverse views on nuclear weapons, deterrence and arms control. The seminars will include religious leaders both in the forefront and in opposition to the anti-nuclear movement. The maximum planned honorarium for participants is $1,000. Tentative American participants who would receive such are very prominent (e.g., two former Secretaries of Defense) and would take part in five days of activity in Europe. The maximum honorarium for these prominent participants, therefore, would be $200 per day -- certainly not excessive by the standards of their salaries in their normal occupations.

ASIA FOUNDATION

QUESTION:

Over the last several years, I have taken the lead to maintain the core program of the Asia Foundation. Is that funding now provided in the request for Project Democracy?

ANSWER:

Yes, sir it is. The FY 84 total of $65,000,000 requested for Project Democracy includes $10,000,000 for the Asia Foundation. This consists of approximately $5,000,000 for the core grant to support the Foundation's traditional activities, plus an additional $5,000,000 for new and expanded programs focusing on democratic development. It is our intention that it will continue to be funded at this proposed level for the indefinite future, subject of course to appropriate review by the Administration and Congress and adequate appropriation of funds by the Congress.

ECONOMIC SUMMIT

QUESTION:

Earlier this week the Subcommittee approved a reprogramming of $2,000,000 to provide press facilities for the Economic Summit at Williamsburg in May.

Over the last few years this Subcommittee has appropriated funds for facilities at Lake Placid, New York, and Knoxville, Tennessee. In Knoxville, we built a $12,800,000 building for the World's Fair that is begging to be used. Was any consideration given to using these facilities before the decision was made to host the conference at Williamsburg with the attendant costs of modifying the William and Mary Field House?

ANSWER:

A selection process to choose a site for the 1983 Summit of Industrial Nations began in August of 1982. A comprehensive analysis was made of over one hundred locations, including Lake Placid, New York and Knoxville, Tennessee. Consideration was given to a number of factors, including appropriate hotel space, meeting facilities, security, weather, experience of host groups, press requirements, budget and others. Colonial Williamsburg was selected as the site which fulfilled the largest number of requirements.

1992 WORLD'S FAIR

QUESTION:

Mr. Wick, you represented the United States with regard to the designation of the sites for the 1992 World's Fair. Why did the U.S. Government support Chicago (that only the Indians heard of in 1492) as the city to commemorate Columbus' discovery of America, instead of Miami, a center of our Hispanic Culture?

ANSWER:

The USIA is responsible for U.S. participation in Bureau of International Expositions-sanctioned events held abroad, while the Department of Commerce has the responsibility for those expositions held in the United States (under P.L. 87-256 and P.L. 97-254, respectively). The selection of Chicago rather than Miami as the site for a 1992 U.S. exposition was a Presidential decision, based on the analysis by the Department of Commerce of the applications received from Chicago and Miami.

As a delegate to the Bureau of International Expositions, my role was to support the designation of a U.S. site for the 1992 exposition, so I am familiar with the basic decision to recognize Chicago and with Chicago's excellent proposal. I personally found it revealing that the 1980 Census indicates that the State of Illinois has as many citizens of Hispanic background as does Florida, and that this population represents more Latin American countries than does the population of Miami. Further, Chicago was host to the World's Columbian Exposition 100 years ago. That fair, commemorating the 400th anniversary of Columbus' voyage to America, remains among the best Expos ever held in the United States.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

STATEMENT OF CLARENCE THOMAS, CHAIRMAN

ACCOMPANIED BY:

JOHN C. SEAL, MANAGEMENT DIRECTOR
ODESSA M. SHANNON, DIRECTOR, OFFICE OF PROGRAM OPERATIONS
ANDREW S. FISHEL, DIRECTOR, FINANCIAL MANAGEMENT SERVICES

BUDGET REQUEST

Senator RUDMAN. Our last request is for the Equal Employment Opportunity Commission. The Commission's request for fiscal year 1984 totals $155.3 million, an increase of $8 million over the enacted budget for the current fiscal year.

The Commission's budget will be presented by its Chairman, Mr. Clarence Thomas. Mr. Thomas, we appreciate your being with us today to discuss your request. Please proceed. We have your entire statement. You can summarize it or submit it for the record.

Mr. THOMAS. I would like to read a brief summary that I have.

INTRODUCTION OF ASSOCIATES

Mr. Chairman, I would like to introduce the members of my staff who are here with me. To my right is Andrew Fishel, who is the Director of Financial Management Services, to my immediate left is John Seal, Management Director, and to my far left is Odessa M. Shannon, who is the Director of the Office of Program Operations.

I appreciate the opportunity to present the fiscal year 1984 budget request for the Equal Employment Opportunity Commission.

BUDGET REQUEST

The 1984 budget request for EEOC is $155.3 million. This constitutes an increase of nearly $8 million over the funds expected to be appropriated for the Commission's operation during fiscal year 1983.

The budget level requested for fiscal year 1984 will allow the Commission to support a full-time equivalent staff level of 3,125. Over 90 percent of the staff will be assigned to work on enforcement program activities, with 84 percent of the staff located outside of Washington, D.C. in EEOC's 48 district and area offices around the country.

Given the labor-intensive nature of EEOC's budget, I have made the improvement of the Commission's personnel and program management my No. 1 priority since becoming Chairman.

MANAGEMENT CHANGES

Two of the management changes I have made, reorganizing headquarters offices and utilizing a comprehensive performance management system, have already produced substantially improved management oversight, accountability, and interoffice coordination.

Similar improvements are expected during fiscal year 1984, resulting from major internal operating changes in the district and area offices, and from full implementation of objectives developed by recently formed headquarters offices.

A comparison of fiscal year 1984 projected performance levels with those produced during the two preceding years demonstrates that substantial and meaningful increases in all major enforcement areas have already occurred since I became Chairman, and further increases are being planned.

JOB DISCRIMINATION

Job discrimination is still a very serious problem, and the agency charged with the responsibility to enforce the Federal employment discrimination laws must be managed in such a way to maximize productivity.

Not content with limiting my goals to improving EEOC's performance in the two areas of traditional concern, namely, caseprocessing and litigation, I have simultaneously launched servicing and technical assistance initiatives that will expand the Commission's accessibility to the public, and apprise the employer community of its obligations.

In summary, my plans for utilizing fiscal year 1984 funds call for a multifaceted attack on employment discrimination resulting in increased complaint closures in less time, increased monetary benefits derived from litigation, expanded public service efforts, and increased technical assistance.

The combined result of these activities should result in a Federal employment discrimination program which is more effective and which reaches a larger number of American workers.

Thank you.

[The statement of Clarence Thomas follows:]

PREPARED STATEMENT OF CLARENCE THOMAS, CHAIRMAN, U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Mr. Chairman and Members of the Subcommittee, I appreciate the opportunity to present the fiscal year 1984 budget request for the Equal Employment Opportunity Commission (EEOC).

The Commission is responsible for enforcing: Title VII of the Civil Rights Act of 1964, as amended, which prohibits employment discrimination based on race, color, religion, sex or national origin; the Age Discrimination in Employment Act of 1967, as amended; the Equal Pay Act of 1963; and, in the Federal sector only, prohibitions against discrimination because of handicap under Section 501 of Rehabilitation Act of 1973.

The 1984 budget request for EEOC is $155.3 million. This constitutes an increase of nearly $8 million over the funds expected to be appropriated for the Commission's operation during fiscal year 1983.

Of the $155.3 million, $18 million will be used to continue the funding relationship which exists between EEOC and State and local fair employment practice agencies. These agencies assist EEOC in resolving employment discrimination complaints.

The remaining $137.3 million will be used largely to pay the salaries and overhead costs for EEOC's staff. Of this amount, 77 percent is used directly to pay for staff salaries and benefits, while another 18 percent is used for such non-discretionary items as rent, utilities, telephones, office supplies and equipment. Only 5 percent of the Commission's internal operating expenses fall within the category which could be classified as discretionary; and many of these expenses, such as supporting litigation activities and conducting surveys of employers, are not discretionary in a real sense, since they are essential to the most basic operations of the Commission's enforcement program.

The budget level requested for fiscal year 1984 will allow the Commission to support a full-time equivalent staff level of 3,125. Over 90 percent of the staff will be assigned to work on enforcement program activities, with 84 percent of this staff located outside of Washington, D.C. in EEOC's 48 district and area offices around the country.

Given the labor intensive nature of EEOC's budget, I have made the improvement of the Commission's personnel and program management my number one priority since becoming Chairman. As a result of management and operating improvements I have initiated during my 10 months as Chairman, and in conjunction with the 5 percent budget increase we are requesting for fiscal year 1984, EEOC will be able to achieve significant gains in the quality and timeliness of its enforcement program.

Two of the management changes I have made—reorganizing headquarters offices and utilizing a comprehensive performance management system—have, within the past 6 months, already produced substantially improved management oversight, accountability, and inter-office coordination. Similar improvements are expected during fiscal year 1984, resulting from major internal operating changes in the district and area offices, and from full implementation of objectives developed by recently formed headquarters offices.

For example, the much intensified training effort I am supporting is expected to produce improved quality in and speedier processing of our investigative workload. Similarly, the research efforts currently being developed are expected to result in a more consistent implementation of Commission policies. As a consequence of these changes, we project for fiscal year 1984 a decrease in the time required to process complaints and a corresponding increase in complaint closures.

The combined impact of the requested budget increase and the management initiatives I am launching will result in a drop in EEOC's pending complaint inventory to 3.5 months at the end of fiscal year 1984, as compared to 8.1 at the end of fiscal year 1982 and 4.9 months of work projected as pending at the end of fiscal year 1983. Fiscal year 1984 will see EEOC staff resolving a total of 73,490 complaints, as compared to 68,890 in fiscal year 1982 and 69,820 projected for fiscal year 1983. In a major area of agency discretion, the initiation of directed age and equal pay investigations, EEOC staff will conduct 1,500 investigations in fiscal year 1984, as compared to 760 in fiscal year 1982 and 1,150 projected in fiscal year 1983. In the litigation area, we project that in fiscal year 1984, EEOC will authorize 300 lawsuits, as compared to 104 in fiscal year 1982 and 200 projected for fiscal year 1983.

You will note that I have repeatedly compared fiscal year 1984 projected performance levels with those produced during the 2 preceeding years. This comparison dramatizes that substantial and meaningful increases in all major enforcement areas have already occurred since I became Chairman and further increases are being planned. Job discrimination is still a very serious problem and the agency charged with the responsibility to enforce the Federal employment discrimination laws must be managed in such a way to maximize productivity.

Furthermore, the enforcement activities this budget request will allow EEOC to undertake compare favorably to the achievements which were being attained at the end of the previous Administration. For example, in fiscal year 1980, EEOC's Title VII complaint closures benefitted 29,200 people. In fiscal year 1984, we project that 40,715 people will benefit from the Commission's Title VII investigations. Similarly, EEOC's age discrimination complaint closures will increase from a 1980 level of 6,500 to 15,790 in 1984; equal pay complaint closures will increase from a 1980 level of 1,600 to a 1984 level of 2,700. In the litigation area, EEOC-initiated cases are expected to produce $50 million in benefits during fiscal year 1984, as compared to $20 million in monetary benefits achieved during fiscal year 1980.

This comparision of fiscal year 1984 and fiscal year 1980 achievement levels for EEOC demonstrates that this Administration is genuinely concerned about employment rights and is committed to making certain a viable process exists for citizens to use if they beleive themselves to be the victim of employment discrimination.

Not content with limiting my goals to improving EEOC's performance in the two areas of traditional concern, namely, case-processing and litigation, I have simultaneously launched initiatives that will expand the Commission's accessibility to the public and scope of impact. An Expanded-Presence initiative will involve on-site visits by EEOC staff to areas not adequately served by one of EEOC's district or area offices in order to explain Federal employment discrimination protection and EEOC's authority to individuals who may not be fully aware of their rights or the avenues available for seeking a redress of their grievances. A second initiative I am launching calls for EEOC staff to provide educational and technical assistance to employers (especially small employers), unions, and employees to encourage voluntary compliance with the Nation's employment discrimination statutes.

In summary, my plans for utilizing fiscal year 1984 funds call for a multi-faceted attack on employment discrimination resulting in increased complaint closures in less time, increased monetary benefits derived from litigation, expanded public service efforts and increased technical assistance. The combined result of these activities should result in a Federal employment discrimination program which is more effective and which reaches a larger number of American workers.

NONRECURRING SUPPORT COSTS

Senator RUDMAN. Thank you for that summary. This is very refreshing to hear an agency that has only 16 percent of its personnel in Washington. We should try to do that more often. That is quite different from most of the testimony we hear.

The budget request includes a decrease of $2,299,000 for nonrecurring support costs. Please explain this decrease.

Mr. THOMAS. Yes, Mr. Chairman, we have had some reduction in our administrative costs. For example, our phone costs have gone down, printing costs have gone down, and we anticipate additional cost reductions.

We could give you an entire list of all of the costs reductions. We anticipate a $200,000 cost reduction in our training.

Senator RUDMAN. Would you supply that entire list for the record?

Mr. THOMAS. Yes, sir.

Senator RUDMAN. I think we would like to see it, and not necessarily only for your agency.

Mr. THOMAS. Again, one of the major areas of achievement for us has been the telecommunications area, the FTS system. We anticipate a nonrecurring cost of in excess of $1 million simply by overhauling our system.

EEOC HEADQUARTERS REORGANIZATION

Senator RUDMAN. Earlier this year, you underwent a major reorganization. Just generally tell us the elements of the plan and how it will make the Commission more effective.

Mr. THOMAS. The earlier reorganization you are mentioning there is our headquarters reorganization. In that reorganization, we attempted to streamline the agency. We, first of all, reduced the number of offices in the agency from 14 to 10. We thought that at that time the functional lines of responsibilities in those offices were not sufficiently clear, so we consolidated those responsibilities. That resulted in the reduction of the number of offices from 14 to 10.

We believe also that we improved our internal coordination through the reorganization. It is not so much a structural matter as it is more a management style. We included within that the whole concept or idea of having team-building—having our top managers operate as a team. In addition, we added an office of program research. In the past, apparently that whole research effort was lost in the shuffle. So we did create that operation.

In addition, since we are primarily in the field with 49 offices out there, we felt it was imperative that we have a strong communications link with the field and headquarters. So we established a regional program director's office with three regional program directors who have responsibilities for three separate areas of the country. We think with this combination we will have better communication and oversight of the field.

OFFICE LEGAL COUNSEL VS. OFFICE OF GENERAL COUNSEL

Senator RUDMAN. As part of that reorganization, you created a position of Legal Counsel. Will you tell us how that is distinguished from General Counsel and why both are necessary?

Mr. THOMAS. Well, first of all, the General Counsel, by statute, is responsible for litigation enforcement. When a complaint reaches a point where we have to litigate, the General Counsel has the statutory responsibility and authority to go to court to litigate that or enforce that complaintant's statutory civil rights. In addition, in the past the General Counsel had internal legal advisory responsibilities. We felt that in order to enhance both efforts—both the legal advisory responsibilities and the legal enforcement responsibilities—it would be better to bifurcate them and put them under two separate offices. The General Counsel still has enforcement responsibilities and can devote full time to litigation enforcement. On the other hand, the Office of Legal Counsel has now taken under its wing the entire internal advisory process that handles defensive litigation which does not involve enforcement responsibilities, as well as the coordination responsibilities which we have in the Federal sector EEO area.

Senator RUDMAN. To whom does the Legal Counsel report?

Mr. THOMAS. They all report directly to me.

GAO REPORT ON FINANCIAL MANAGEMENT AT EEOC

Senator RU[illegible]AN. Prior to your arrival in 1981 and again in 1982, GAO made some pretty serious charges about management practices, saying that accounting records and reports were unreliable; receivables, payables, and advances were inaccurately reported; and internal accounting controls were weak. I imagine from what you have said up to now you have done something about that.

Mr. THOMAS. We have done quite a bit about that. The bottom line is that we do know how much money we have on hand now. That was a serious problem. Last year it was particularly difficult before the continuing resolution not knowing how much money we had.

We have significantly improved our financial management. We have corrected all of the coding errors noted by the GAO report. We have all of our accounts-receivables identified as valid and we have an accounting system now which we believe will be approved by GAO and we think will eliminate future problems. We have taken very aggressive steps to collect the $1.2 million outstanding in travel funds; more than 50 percent of the advances have already been collected. Our Contract and Procurement Division has been completely reorganized, and we put some people there we think really run a tight ship. We have also filled the key supervisory areas in the financial management area.

\ OPM'S ASSESSMENT OF OVERGRADING AT EEOC

Senator RUDMAN. On the same general subject of administration, OPM assessed the grade levels of headquarters staff, and believes there are significant problems with overgrading. That is what they say. Do you agree with that?

Mr. THOMAS. We disagree with the report. It didn't matter, though, in terms of finance. Out of 60 positions, OPM downgraded 53.

Senator RUDMAN. How significant were the downgrades?

Mr. THOMAS. Very significant. I can't remember what the average downgrade was, but it was as much as six positions, six GS points on the scale, for example from GS-13 to GS-7.

Senator RUDMAN. What would that mean to the person holding that position in terms of compensation?

Mr. THOMAS. For 2 years it would mean nothing, but ultimately it would mean a considerable amount of money. But with respect to OPM's statements, we do disagree with OPM. We indicated that we could resolve much of the overgrading problem through our restructuring of the organization and by giving the individuals more responsibilities. Right now we are, in response to that, looking at the entire organization. We intend to do our own position reviews and do the necessary maintenance to either upgrade positions or see that added responsibilities are given to the individuals involved. We are in the process now of conducting our own reviews to prevent that from happening in the future. No maintenance review had been conducted in the past and the overgrading, I think, is something that is indicative of Government and certainly something that can occur if we did not take the necessary precautionary steps.

STATE AND LOCAL FUNDING

Senator RUDMAN. You have a decrease of $500,000, to $18 million, proposed for the State and local grant program. Which grants, if you know, will be cut and what effect will this have on State and local equal opportunity employment efforts?

Mr. THOMAS. Our budget request for fiscal year 1983 was for $18 million. The continuing resolution increased that amount an additional $500,000 over the $18 million actually requested. Our projections indicate that the $18 million will be adequate to handle the projected cases that the State and local agencies will process in fiscal year 1984. A portion of the $500,000 is now being used for an inventory-reduction program. The inventory-reduction program will not be in place in fiscal year 1984.

PREPARED STATEMENT OF SENATOR HOLLINGS

Senator RUDMAN. Senator Hollings has concerns and has a statement for the record. What I think I will do is submit these questions and if Senator Hollings has any others, and ask you to respond for the record.

[The statement follows:]

PREPARED STATEMENT OF HON. ERNEST F. HOLLINGS, A U.S. SENATOR FROM SOUTH CAROLINA

Mr. Chairman, I have received many letters from managers of state and local fair employment agencies. These letters reflected the concerns of these front-line leaders in the fight against discrimination of the level of the Equal Employment Opportunity Commission's budget. In particular, these letters protested the reduced allocation for reimbursement to state and local agencies for processing Title VII complaints.

Mr. James E. Clyburn, South Carolina's highly respected Commissioner of Human Affairs, wrote that the "state and local agencies process approximately 60 percent of all the employment discrimination charges filed in this country" and called for a "more balanced formula for the disbursement of funds to state and local agencies in investigating charges." Director Joanne A. Lewis, of the California Department of Fair Employment and Housing, stated that "two-thirds of all discrimination charges are filed with state rather than the EEOC." Carlos Martinez, the Executive Director of New Mexico's Human Rights Commission, wrote that it costs "EEO in excess of $3,000.00 to resolve a case." He went on to say that "If this same case is handled by New Mexico, then New Mexico is reimbursed a maximum of $412.50 by EEOC. This amounts to a taxpayer savings of $2,587.50 per case."

Similar statements were received from transplanted South Carolinian Mr. Thom E. Martin, Executive Director of Providence's Human Relations Commission, and others who also supported additional funding of the EEOC itself.

During my chairmanship of this Subcommittee, I reviewed this with Eleanor Holmes Norton, the previous chair of the Equal Employment Opportunity Commission. Our findings backed the claims of the state and local agencies that they could do the job more efficiently and economically.

The ultimate appropriation to the EEOC itself, as well as the allocation to the state and local agencies, will rest on how much we can wring out of our overall budget allocation. However, I am opposed to any reduction in the amount earmarked for the state and local processing of Title VII complaints, and will be working with you to find a way to increase the funding of these agencies.

I have some questions to be submitted for response by the Chairman of the Equal Employment Opportunity Commission.

CHAIRMAN THOMAS' BACKGROUND

Senator **RUDMAN**. Mr. Thomas, how long have you been Chairman? When did you take over?

Mr. **THOMAS**. I have been Chairman since May 17, 1982, approximately 10 months.

Senator **RUDMAN**. What were you prior to that?

Mr. **THOMAS**. I was with the Assistant Secretary for Civil Rights at the Department of Education for approximately the same length of time.

Senator **RUDMAN**. Prior to that?

Mr. **THOMAS**. I was here on the Hill on Senator Danforth's staff writing all these questions.

Senator **RUDMAN**. That explains something anyway. Mr. Thomas, your testimony has been very crisp and very refreshing and I think you are very much in charge down there. Very excellent testimony. We appreciate your being up here.

SUBMITTED QUESTIONS

There will be additional questions.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

SUBMITTED QUESTIONS

Program I - Executive Direction and Support

Question No. 1

In an April 1981 report (HRD-81-74) GAO recommended that EEOC institute controls to insure that equipment is purchased only after needs are assessed and alternatives considered. In that report GAO also recommended that accurate inventory records be established, maintained and monitored.

-- Since April 1981 what controls have been established to ensure that only needed equipment is purchased?

-- Has a centralized inventory been established? How is it kept current and accurate?

-- How many on-site inventory verification visits have been made in the past year? How often will such visits be made to each office?

-- How are equipment purchases and inventories coordinated?

Answer

Since 1981, strict controls have been established to ensure that only necessary furniture/equipment is purchased for Commission use. These controls include the following:

-- The centralization of all funds for purchase of furniture and equipment in a headquarters office which is responsible for the personal property program. This requires that all requests for purchase of personal property are reviewed and analyzed prior to the decision to purchase, rather than supply through stock or GSA excess. The centralization of funds provides for the coordination of purchases and inventories, since approval of purchases and updating of inventories is controlled within a central headquarters office responsible for both systems analysis and property management control.

-- The establishment of triennial inventories of furniture and annual inventories of serialized equipment has resulted in an inventory system which allows more precise tracking. Property utilization standards have been established to reduce excess. Also, quarterly computer listings are submitted to all offices showing any transactions recorded, with the requirement that the listings be certified as to correctness. The establishment of these inventories and quarterly listings will allow for accuracy and currency of Commission property.

Since 1981, verifications of 33 field office and of all headquarters offices have been conducted. Our first major biennial survey is expected to be completed, depending on the availability of travel funds and personnel, by the end of this fiscal year.

Question No. 2

Analysis of information on pages 7 and 12 shows that the 1984 headquarters staff is 226 (45 percent) FTE staff positions above the 1983 estimate included in the 1983 submission (pp. 6 and 11).

-- What caused this increase?
-- Which headquarters offices and functions received the most significant increases?
-- How many of these people were reassigned from other EEOC offices?

Answer

The increase in headquarters FTE staff positions in the 1983 estimate compared to the 1984 estimate is an increase of 82 FTE staff positions, not 226. In the 1983 estimate (February 1982 justification), 144 headquarters FTE staff are assigned to Program III - Program Support and Administration, page 29, for a total assigned to headquarters of 649.

The agency reorganized October 1982, with FTE staff positions assigned to only two programs, for a total of 731 assigned to headquarters. The 82 FTE positions were vacant key positions that as part of my management improvement plan would strengthen neglected areas of concern, such as the Office of Audit, Financial Management Services and the Office of Program Operations, which oversees the performance of the 22 district offices.

Question No. 3

On p. 9 you list as an accomplishment the implementation of a comprehensive Performance Management System. However, in your 1983 budget submission (p. 7) you cited as an accomplishment implementation of new management Accountability System.

-- The two systems sound very similar and it appears that the PMS replaced the MAS, which had been operational only a short time. If the PMS did, in fact, replace the MAS why was it necessary? If it did not replace it, why is it needed? What are the differences between the two systems?

Answer

An integral part of the agency's headquarters reorganization has been the new performance management system (PMS), which replaced the agency's management accountability system (MAS) implemented in 1979. The PMS is an important element in the process of strengthening the EEOC's management, a primary aim of this Administration. The PMS is premised on the foundation of the agency's mission statement, which defines the Commission's work. This year, as part of PMS implementation, EEOC's mission was reviewed and revised to include voluntary assistance and program research as significant agency aims. Moreover, it was determined that the new system for the management of agency performance would build upon the accomplishments of the management accountability system, refining and streamlining its management-by-objective methodology and adding new components: a quality assurance program, mission review and development, a staff development and training process, and a capacity for long-range planning.

The PMS brings a new focus on team-building among the agency's top management through implementation of PMS components which have been integrated to a greater degree than were those of the MAS. Specifically, the PMS instituted a comprehensive planning program, including long-term strategic and multiyear short-term planning activities, integrated with annual development of goals and objectives for each Commission office. Under PMS, individual performance appraisal standards directly reflect annual office goals and objectives, agency long-term plans and strategies, as well as the agency's mission. Additionally, by incorporating staff development and training into the PMS and by instituting a new quality-assurance activity to review the substantive quality of the agency's work product, performance planning has been tied to performance evaluation and performance-support functions. Similarly, the management-reporting and information-collection functions of the PMS are more comprehensive than was the MAS information component, which focused primarily on charge-processing. The new management reporting system covers all agency information requirements, including those for headquarters and executive direction and support functions and for field office charge-processing.

Program II - Enforcement

Question No. 4

The budget justification discusses EEOC's headquarters and field reorganization. With regard to the new position of Legal Counsel:

-- Please differentiate the roles of the General Counsel and the Legal Counsel and explain why two offices are necessary.

-- According to your 1983 budget submission (p. 11) 106 FTE staff were assigned to the General Counsel's office in 1982. According to the 1984 submission a total of 157 FTE staff are assigned to the two offices (77 General Counsel; 80 Legal Counsel) now. Has the General Counsel's office been relieved of some responsibilities? How many staff were reassigned from other EEOC offices to the Legal Counsel's office. Why does the Legal Counsel's office require 80 FTE staff?

Answer

The Legal Counsel serves as principal advisor to the Commission and staff on all non-enforcement legal matters, carries out the Commission's function as leader and coordinator of the equal employment enforcement responsibilities of Federal departments and agencies pursuant to Executive Order 12067, and provides guidance through the drafting of regulations, compliance manual sections and non-precedent decisions for Commission approval. The Office of Legal Counsel also performs the following key functions:

° Represents the Commission in all defensive litigation except for suits arising out of the enforcement of Title VII of the Civil Rights Act of 1964, as amended, the ADEA, and the Equal Pay Act;

° Provides legal advice and counsel to the Commission and its officials and programs;

° Serves as the Commission's mechanism for interagency coordination; and

° Drafts and recommends for Commission consideration and approval opinion letters under civil rights laws deemed appropriate for such opinions;

The General Counsel manages, coordinates and directs the Commission's enforcement litigation programs in accordance with the Commission's enforcement litigation strategy. The Office of General Counsel also does the following:

° Consults with and advises the Office of Systemic Programs and the Office of Program Operations to insure that both individual and systemic reasonable-cause determinations are litigation-worthy;

° Conducts headquarters systemic litigation pursuant to Commission authorization; and

° Recommends enforcement litigation for other than systemic cases.

The reorganization established clear lines of functional responsibility through the consolidation of related policy functions in the Office of Legal Counsel.

It was determined that the need for centralization of the Commission's policymaking functions and the need for independent legal counsel to the Commission justified raising the former Legal Counsel Division to Office status.

Through reorganization, the Office of General Counsel's legal advisory and policymaking responsibilities were transferred to the new Office of Legal Counsel. The primary aim of this transfer was to enable the Office of General Counsel to focus its entire effort on improving operational efficiency of litigation enforcement programs, thereby strengthening its programmatic activities.

Thirty-three positions and the advisory and litigation functions assigned to those positions were transferred from the old Office of General Counsel to the new Office of Legal Counsel. Seventeen positions were transferred to Legal Counsel from the former Office of Interagency Coordination, as was the coordination function. Twenty-one positions were transferred from the former Office of Policy Implementation, along with its decision-precedent-review function. One position each came from the Offices of Field Services, Systemic Programs, Review and Appeals and Program Planning and Evaluation.

In summary, essentially the same number of personnel are performing the functions and located in the Office of Legal Counsel as were performing the same functions in three separate offices prior to the reorganization.

Question No. 5

On p. 15 you discuss the Expanded Presence Effort and Voluntary Assistance Program implemented in 1983.

a. Please describe the components of these programs in detail.

b. Discuss the extent to which the Area Office workload will be increased by the addition of new types of charges.

c. What is meant by "deployment" of compliance teams and areas "underserved" by EEOC and FEP's?

d. What percent of district and area offices' resources will be spent on the voluntary assistance program?

e. What measurable goals have been set for the two programs?

Answer

Most EEOC area offices are responsible for only those functions that are related to rapid-charge-processing, i.e., intake and factfinding. Therefore, those Title VII charges which require extensive investigation (both class and individual), those which are identified as probable litigation vehicles, and all age and equal pay charges are transferred to the parent district office for investigation and/or resolution.

In addition, recent Commission study and analysis of economic, demographic, and compliance workload statistics revealed that little EEOC presence is recognized in areas located beyond the large urban centers in which the Commission has district and area offices. The principle finding of these studies is that wherever the offices are located, the Commission receives a significant number of charges filed against respondents in the same location. However, the majority of the population, of minority group members, and of employers with 250 or more employees are located outside of the urban areas in which our offices are established. Therefore, the agency has initiated an expanded-presence effort, which has the following components:

a) Expanded Functions in Area Offices

On an office-by-office basis, functions in addition to intake and factfinding will be added to area office responsibilities, including the full processing of age and equal pay charges, extended investigation of Title VII charges, substantial-weight review of decisions rendered by State and local agencies on charges, and in some offices, onsite legal assistance. This expansion will allow most area offices to become involved in the full range of Commission enforcement responsibility.

b) Expanded-Presence Initiative

The aforementioned studies reflected a pattern which strongly suggests that the further one travels within a district from the

SMSA's in which field offices are located, the less well known to the public are the requirements and protections of the EEOC laws and policies. Full interviews with our field managers lent credence to the conclusions drawn from the study. To rectify this situation, the Commission adopted an expanded-service initiative which requires:

1) Additional media announcements of the protections afforded by the laws EEOC enforces and the services EEOC provides thereunder. Our intent is to make the general public more knowledgeable in this regard through public service announcements in the electronic and printed media.

2) On-site public accessibility to EEOC personnel in those areas identified as underserved. Plans are to deploy Commission employees to these several locations to assist the public in becoming knowledgeable in the protections of Federal laws the Commission enforces. "Deployment" of compliance teams refers to our plans for district and area office personnel to make scheduled visits to areas outside of the urban centers in which field offices are located.

   Areas "underserved" by EEOC and FEPC's are those where there has been no indication that employees, unions and the general public have easy accessibility to our services.

Because some area offices have a large and growing workload, the Commission believes it would constitute judicious use of limited resources to authorize area offices to engage in additional compliance and limited enforcement litigation functions. However, the expanded area office authority would not increase the volume of work originating within the area office's geographic jurisdiction. Rather, the expanded authority would allow the area office to process a larger portion of its workload instead of continuing the inefficient practice of transferring significant portions of its workload to the district office for processing. Therefore, the increased area office workload results from its processing a larger portion of the charges emanating from within the area office's geographic jurisdiction, not an increase in the volume of charges it receives.

EEOC and fair employment practices commissions provide efficient and effective service to the population immediately surrounding their locations. However, large segments of the country and certain population groups apparently are not adequately served due to their distance from EEOC and FEPC offices. Therefore, the concept of an expanded presence initiative having the goal of increasing the accessibility of EEOC's staff to underserved populations has been adopted.

A goal of the voluntary assistance program is to ensure that information on equal employment responsibilities and rights reaches all employers and provides the guidance necessary to assist in furthering compliance with Federal laws by employers and unions, particularly the smaller ones not located near EEOC or FEPC offices.

Commission efforts will focus on providing assistance to employers unaware of their obligations under the laws and to persons unaware of their rights, both of whom may not have been adequately served by Federal, State or local agencies.

In order to better fulfill its obligations to provide assistance contemplated under these statutes and to complement an operational effort to establish service to currently underserved areas, the Commission will formalize and institute pilot programs of voluntary assistance starting in October 1983. The voluntary assistance initiative will include educational and technical assistance for both employers and protected classes of individuals. It will be designed to increase awareness of rights and responsibilities under the various statutes and give employers guidance designed to avert adoption of potentially discriminatory policies or procedures.

Educational assistance, as currently contemplated, will consist of general informational brochures, conferences and seminars, public service radio and television messages, and press releases. Technical assistance to employers and unions, as currently contemplated, will consist of training sessions, responses to questions frequently raised by employers regarding forms or procedures, interpretation of statutes, regulations and case decisions, as well as the provision of general advice, guidance and information about relevant laws and procedures.

The expanded-presence initiative and voluntary assistance program are not designed so as to lend themselves to being measured quantifiably; rather they are designed to enhance and/or supplement current enforcement activities and provide needed assistance to employers and members of the public.

Question No. 6

On page 15 and 18 you note that one goal of "integrated" processing is "balanced" processing of EEOC's workload.

a. What kind of balance is sought? Why?--Is balance in inventory (as measured by months to process) the goal? If so, Tables 2, 3 and 4 show a fairly significant difference in these figures for the three types of charges through 1985. Inventories become more equal only as the Title VII inventory increases. Why is this balance a desirable goal?

   -- Is balance in average time to process charges the goal? What was the average time for each type of charge in 1982 and 1983, what do you expect it to be in 1984?

b. How were EOSs trained for integrated processing? How many hours of training were given? Were EOSs who were familiar with Title VII charges specifically trained in ADEA and EPA charges and vice-versa? How?

Answer

a. The goal of integrated charge-processing is to assure that the number of charges/complaints resolved for each of the Commission's statutory jurisdic tion is approximately proportional to that percentage of the Commission's total charge/complaint workload represented by each statute. During FY 1982, 81 percent of the Commission's total workload (charges pending at the beginning of FY 1982 and new charges received during FY 1982) were Title VII charges; 15 percent were ADEA charges/complaints, and 4 percent were EPA charges/complaints. In FY 1982, 83 percent of all charges closed were Title VII charges, 13 percent were ADEA charges/complaints and 4 percent were EPA charges/complaints. Achieving a similar balance for FY 1983 and beyond, despite relatively higher intake rates projected for ADEA charges/complaints than for Title VII and EPA, will require shifting of staff resources to process more of the ADEA workload than was processed during FY 1982.

   A related objective is to achieve balance in average processing times and year-end pending inventories (measured in months of workload) for each statute. During FY 1982, the overall average processing time was 186 days per closure: 176 days for Title VII closures, 212 days for ADEA closures and 282 days for EPA closures. As all equal opportunity specialists are cross-trained in each of the three statutes, and as processing procedures for Title VII, ADEA and EPA statutes are streamlined and harmonized, average processing time should approach 180 days for each statute, with pending inventories in the five-to-seven-month range.

   The aim of "balance" is to provide the charging party public compatible service delivery across jurisdictions. The Commission's purpose here is reflective of its mandate to provide potentially aggrieved members of protected classes under the Commission's combined jurisdictions similar assistance to redress losses attributable to employment discrimination regardless of the particular basis (race, color, sex, religion, national origin, age, equal pay, or retaliation) of the charge or complaint filed.

b. Training materials in ADEA, EPA and Title VII charge-processing were developed by our Staff Development and Training Division (SDTD). Designated training administrators and trainers from the three pilot district offices were trained by SDTD in using the participant workbooks, instructor guides, training aids and supplementary materials and handouts, and in instructional techniques. The district training officers in the three pilot offices then trained all EOS's, attorneys and paralegal specialists in both district and area offices reporting to them who needed training in age, equal pay and/or Title VII charge-processing. Prior to this cross-training, EOS's in Title VII investigative units had not had formal training in the ADEA and

EPA statutes. All EOS's, however, had been trained in basic Title VII processing prior to FY 1983. Two days (16 hours) of training were provided in each of the three statutes. The training materials were evaluated during the pilot testing and modified as needed. The district training officers from the remaining 19 district offices were given training in the materials, as well as in methods of delivery in train-the-trainer sessions. District training officers were then responsible for scheduling and delivering training to district and area office staffs in the three statutes, as needed. All EOS's were provided training for integrated processing prior to implementation of the field reorganization.

Question No. 7

On pages 16 and 19 you note that average charge processing time has been significantly reduced and that another 5 percent increase in staff productivity is expected 1984.

-- Besides "incorporation of processing goals in staff performance appraisal agreements," what specific "management efforts" were taken in 1983 to achieve this significant reduction in average processing time?

-- What other steps are planned for 1984?

Answer

In 1983, EEOC implemented a headquarters reorganization which consolidated all program functions of the Commission within one office, the Office of Program Operations. Three regional program directors closely monitor the performance of all field offices. This increased coordination at the headquarters level assists the field in improving the overall quality of its compliance activites.

The Commission has also implemented its field reorganization, which among other improvements, has trained equal opportunity specialists as generalists able to handle all aspects of charge-processing. The continuity of processing by EOS's should increase the agency's effectiveness.

One factor which is included in "average processing time" is the time spent in the processing of backlogged charges filed prior to 1979. Since these charges are older, their inclusion in the determination of "average" charge processing time raises that average. We expect that charges filed prior to 1979 will be eliminated in 1983. In order to prevent a growing inventory of older cases, special emphasis was given to the identification and processing of charges more than 300 days old.

Management techniques developed during 1983 will be refined during 1984. In addition, staff will be shifted, as needed, to prevent the build up of inventory over acceptable limits in cases under all statutes.

Question No. 8

For several years now EEOC has said it was going to streamline or reassess its employment survey forms. For example, your 1982 budget submission (p. 12) said data collection by EEO-1 form would be streamlined in 1981. In its April 1981 report (HRD-81-29) GAO recommended that salary and wage data be added. Recently, GAO again reported (GAO/HRD-83-35) that EEOC was totally reassessing all of its employment survey forms and expected to complete the reassessment early in 1983. So far the only change has been one imposed by OMB, the elimination of separate EEO-1 reports for individual establishments (within a firm) of less than 100 employees.

a. What is the status of EEOC's employment survey forms reassessment efforts?

b. What new information is being considered?

c. How is paperwork burden being minimized?

d. Is data from forms other than the EEO-1 (i.e. State and local government and education forms) computerized? If not, how are the data used? Is the data used to target systemic reviews? How long it take to summarize the data?

Answer

a. The Office of Program Research is currently preparing an extensive review of each of its surveys. The first in a series of five reports will be given to the Chairman within two to three weeks. The others will follow shortly.

b. We do not plan to significantly expand the type of data being collected. Although it has been suggested to the Commission that salary information be added to the EEO-1 survey, the utility of this data is being evaluated against the increased burden it would impose on employers.

c. The paperwork burden is being minimized as follows:

-- Separate reports are required for units with 50 or more employees only, which reduced the EEO-1 respondent burden by 30 percent, from 900,000 hours to 634,000 hours;

-- We no longer collect data from non-referral unions, which reduced the EEO-3 respondent burden by 88 percent, from 37,500 to 4,500 hours;

-- We eliminated separate functional reports for respondents with fewer than 250 full-time employees, which reduced the EEO-4 respondent burden by 44 percent, from 360,000 hours to 200,000 hours;

-- We changed the EEO-5 survey from an annual to a biennial filing basis, which reduced the EEO-5 respondent burden by 50 percent over a two-year period, from 412,500 hours annually to 412,500 hours every two years; and

-- We reduced length of the questionnaire by restricting the length of contract data to faculty members only, which reduced the EEO-6 respondent burden by 20 percent, from 15,000 to 12,000 hours.

d. Data from all EEOC employment surveys are computerized. A statistical file for each survey is created that includes all data submitted on a report, plus federal information processing standards, or, FIPS, geographic codes for each State, county and SMSA. The EEO-1 statistical file also contains codes for cities of 50,000 or more and standard industrial classification codes.

Basic data summaries are a part of the standard processing contracts. Those contracts are let for a 12-month period. Therefore, basic summaries are ready 12 months after the contract award. Special tabulations are designed for publication. Publication tabulations developed by private contractors are due 30 days after the award is made. Those prepared in-house are ready 30 days after validation of the statistical file.

Data from surveys other than EEO-1 are utilized on an as-needed basis by district office, headquarters compliance specialists and litigating attorneys. Data collected in the EEO surveys on the utilization of minorities and women in apprenticeship programs, referral unions, State and local governments and educational institutions provide the basic file in any enforcement action. These data, in aggregate form, provide an analytical tool for tracking progress in any of the above sectors. In addition, all systemic program reviews require an analysis of data available through the survey programs.

Question No. 9

On pages 16 and 19 you project an increase in the dollar value of benefits accrued to charging parties. On page 16 you attribute this in part to selection of cases with broad impact.

a) Will your agency seek back pay for classes of victims of discrimination, or, like the Office of Federal Contract Compliance Programs, begin limiting back pay to specific individuals who "but for" discrimination would have been hired, fired, etc.?

b) If you do not follow a policy similar to OFCCP's, what difficulties could result from two Federal agencies using such different remedial strategies? Are these questions of equity (a) for complainants, since any given discrimination complaint about a Federal contractor could be processed by either agency or (b) for employers other than Federal contractors, who may be more often forced to pay back pay to a class than Federal contractors?

c) How is this Memorandum of Understanding between OFCCP and EEOC working? Has it been fully implemented? How many complaints has OFCCP transferred to EEOC?

Answer

a) Yes. The agency will continue to seek back pay relief for classes of victims of discrimination, as well as for individual discriminatees.

b) We do not foresee any legal or equitable difficulties arising from the possibility that the OFCCP may take a different enforcement approach. However, the Commission is in the process of reviewing the proposed OFCCP regulations which were recently received. We are unable to fully respond to your question in greater detail at this time.

c) The 1981 Memorandum of Understanding has been implemented and is working both in the sharing of information between agencies and in the avoidance of duplication of efforts in compliance activity. We do not have information regarding the number of complaints referred to EEOC by OFCCP.

Question No. 10

In many ways systemic charges may be a more effective civil rights tool than individual complaint investigations because of their broader scope and more focused approach. On page 19 you state that the number of systemic charges completed will increase because of more effective targeting and new processing procedures.

a) What specifically are these new targeting and processing procedures?

b) Will staff resources allocated to systemic enforcement be changed? What staff resources (FTE) were or will be expended on systemic enforcement in 1982, 1983, and 1984?

c) How many systemic charges were, or will be, initiated in 1982, 1983, and 1984?

Answer

a) The new targeting procedure involves extensive utilization of and coordination with the Office of Research to establish profiles on employers in growth industries. After the employers have been identified for targeting, a newly-formatted presentation memorandum is prepared for transmittal to the Commissioners for their review and approval (or disapproval). The new presentation memorandum will expedite review and enhance the possibility of increased output.

This method of targeting is still undergoing refinement, and other changes are being contemplated. Complaint-processing procedures are being completely revised for the purpose of streamlining to reduce the total time for processing. This process is expected to be completed by early fall.

b) Currently, we are not projecting staff resources to change in FY 1983. Actual staff resources expended on systemic enforcement in FY 1982 were 158 FTE. Currently, with no staffing changes projected, FY 1983 and FY 1984 staff resources should remain constant at 158 FTE.

c) No systemic charges were initiated in FY 1982. It is estimated that in FY 1983 between 22 and 29 charges will be initiated; approximately 30 charges are projected for FY 1984.

Question No. 11

EEOC does not have the same authority to file suit against State and local governments that it has for other employers. In the past GAO has recommended that EEOC be given that authority. Without such authority does EEOC actively pursue investigations of State and local governments?

-- What part of EEOC's enforcement (percent of total charges investigated, percent of total systemic charges filed, etc.) are spent on State and local governments?

-- How many charges against State and local governments were referred to the Department of Justice in the past three years? How many did DOJ act on?

-- How much does it cost to collect and process the EEO-4? How useful is it?

Answer

By statute, EEOC does not have authority to sue State and local governments under Title VII, although the Commission may sue these governmental entities under the ADEA and EPA and has done so. Recently, in fact, the Supreme Court ruled in EEOC v. Wyoming, a case involving the Commission's challenge to a mandatory retirement age for game wardens, that application of the ADEA to State and local governments was not unconstitutional.

EEOC investigates Title VII charges filed against State and local governments in the same manner as charges filed against private employers and issues letters of determination finding cause or no cause to believe that the alleged discrimination occurred. Efforts are made to resolve charges prior to a finding of discrimination through the rapid-charge-processing system and formal conciliation efforts conducted by the Commission subsequent to a finding of reasonable cause. Only when a respondent refuses to provide requested information, or if there is reason to believe that it is necessary to obtain court-ordered preliminary relief (as when a charging party is subject to retaliation), does the Department of Justice become involved in the Commission's processing of a Title VII charge against a State or local government prior to a failure of conciliation.

Because it is unable to litigate cases against State and local governments in Title VII cases, EEOC does not designate charges against such entities as early litigation identification cases for special class processing, nor does the Commission file systemic charges against these governments.

The EEOC does not routinely keep statistics which segregate Title VII charges filings by type of respondent on a quarterly basis, so we are unable to provide statistics which show the percentage of charges in our current inventory filed against State and local governments. However, studies available for previous years show that in FY 1980, some 10,631 of 93,814 charges had been filed against these governmental agencies; in FY 1981, 10,352 of 77,802 charges had been filed against State and local governments. Our information indicates that this trend has not changed significantly during the past fiscal year. There are no systemic charges filed against governmental respondents. Charges and complaints are filed against State and local governments under both the ADEA and the EPA.

We do not have information on the exact number of charges which have been referred to the Department of Justice. All charges which have been filed under Title VII against State and local governments which fail conciliation are referred to DOJ. That Department rarely chooses to litigate a case referred by EEOC, particularly, as is most often the case, if the charge involves only individual relief.

The cost to collect and process the 1981 EEO-4 survey was $294,810. EEO-4 data are very useful to the Commission, State and local FEPC's, other federal agencies, State and local governments and Title VII litigants. In 1982 these user classes retrieved 3,530 EEO-4 reports and 1,158 aggregates.

The Departments of Justice and Housing and Urban Development receive copies of our entire EEO-4 file. The latter agency uses the EEO-4 report to implement its Community Development Block Grant (CDBG) and Urban Development Action Grant (UDAG) programs. The EEO-4 has completely replaced HUD's CDBG survey form 936 as of the 1982 reporting period. Federal Highway Administration offices also require EEO-4 data from state highway administrations as a part of their applications for funds.

EEO-4 data are also shared with the public through a publication entitled Minorities and Women in State and Local Governments.

Question No. 12

In its April 1981 report (HRD-81-29) GAO recommended that EEOC emphasize the importance of compliance monitoring and ensure monitoring is performed promptly and on-site visits made to verify reports. In response to that report EEOC indicated a task force had been established to study the issue.

- What has been done in the two years since GAO's report to improve monitoring conciliation agreements?

Answer

The present procedures for the monitoring of conciliation agreements is contained in section 80 of the agency's compliance manual. A study of compliance monitoring showed that this section is in need of revision to conform to the present and anticipated organization of field offices. Section 80, along with other compliance manual sections, has been scheduled for revision. In the meantime, district directors have been reminded to make sure that responsibility for monitoring conciliation agreements is assigned to appropriate staff.

Question No. 13

On page 17 you list as an accomplishment the review of agency enforcement programs in accord with responsibilities assigned to you under Executive Order 12067.

-- Have agencies been cooperative in this process?

-- Have disagreements arisen between EEOC and other agencies? What were they? How were they resolved?

Answer

-- Yes. Agencies usually have been cooperative in submitting their proposed issuances for coordination and review as required by the Executive Order.

-- We have made recommendations to a number of agencies on issues they have submitted for review and have been able to work out problems identified before regulations were issued. No differences between the Commission and other agencies have yet reached the stage where the disputes-resolution mechanism of Executive Order 12067 has had to be invoked.

Question No. 14

According to your budget submission (p. 19), procedures approved by the Commission in fiscal year 1983 for review of the Uniform Guidelines on Employee Selection Procedures will be implemented in fiscal year 1984.

1. Did all the Guideline's signatory agencies participate in developing these procedures?

2. How long do you expect the review and revision process to take?

3. Will all the signatory agencies participate in the review and revision process?

4. Will this process be coordinated with the joint committee reviewing the American Psychological Association Standards and the relevant professional groups?

5. Will your review process deal with problems associated with (a) collecting and maintaining adverse impact data, (b) searching for alternatives during validation, (c) the relationship of merit laws to the Guidelines, and (d) the Guideline's understandability?

6. What provisions will be made for public review and comment of the draft of your proposed changes to the Guidelines?

7. What provisions will be made to have State and local governments review and comment on the proposed changes, as required by Office of Management and Budget Circular A-86?

Answer

On March 15, 1983, the Commission voted to review the recordkeeping provisions of the Uniform Guidelines on Employee Selection Procedures, with the exception of those provisions which relate to the technical standards.

1. The procedures and workplan for conducting the review are under develop-

ment, and staff will recommend that they be coordinated with the signatory agencies. It is anticipated that the Commission will approve this recommendation.

2. We can not estimate how long the review process will take until the workplan has been approved by the Commission.

3. Staff will recommend that signatory agencies participate in the review process and in the revision process, should revisions be necessary. It is anticipated that the Commission will approve this recommendation.

4. The process will not be coordinated with the joint committee revising the American Psychological Association Standards and the relevant professional groups because the review is limited to those recordkeeping provisions of the guidelines which are not related to the technical standards.

5. Our review process will deal with problems associated only with the collecting and maintaining of adverse impact data.

6. The Commission will publish a notice in the Federal Register requesting public comment on the recordkeeping provisions of the guidelines, except for those provisions which relate to the technical standards. After review of the comments received, the Commission will determine if revisions to the recordkeeping provisions are necessary. If so, a notice of proposed rulemaking will be published in the Federal Register providing for a 60-day public comment period, and a public hearing will be held by the Commission.

7. State and local governments will be given the opportunity to review and comment on any proposed changes to the guidelines during the public comment periods referenced in our response to the previous question. We have been informed that the Office of Management and Budget Circular A-86 has been withdrawn.

Question No. 15

According to your budget submission (p. 4), the inventory of Federal sector hearings is expected to exceed 9 months through fiscal year 1985. Also, the appeals inventories are expected to decline from 7.2 months in fiscal year 1982 to 3.8 months at the end of fiscal year 1984.

a. Does this mean that a complainant can expect to wait more than 9 months to obtain a hearing on his/her complaint?

b. Does EEOC consider this to be acceptable and what is being done to reduce this inventory?

c. What steps has EEOC taken that permits it to project a decline of almost 50 percent in the Federal appeals inventory by the end of fiscal year 1984?

d. Could similar steps be taken to reduce the inventory of hearings?

e. What can EEOC do to help agencies reduce the time it takes to investigate and arrive at decisions on EEO complaints?

Answer

a. It means that, on the average, a complainant may expect to wait more than nine months to have his/her request for hearing processed to completion. Not all requests for hearings result in hearings, however. In FY 1982, for example, 37.4 percent of hearing requests resulted in hearings and closure by recommended decisions; 35.1 percent were settled prior to hearing; 10.3 percent were unilaterally withdrawn by the complainant; and 13.5 percent were remanded to agencies for a variety of reasons, most often involving failure to prosecute or inadequate investigation. (The remaining 3.2 percent of the workload involved class-action complaints where no hearing was involved.)

b. EEOC does not consider this to be acceptable. In order to reduce the inventory, we are planning to assign additional complaints examiners to the program and are also instituting a number of other strategies designed to increase efficiency and reduce case-processing time. For example, we are:

- Expanding use of non-attorney personnel for pre-hearing and settlement work;
- Making additional resources available for case-research and decision-drafting;
- Temporarily detailing other attorneys to hearing units in limited numbers of district offices for short periods of time;
- Testing a program for issuing decisions from the bench in simple, one-issue complaints; and,
- Transferring cases from high-inventory offices to the few low-inventory offices, in order to balance the workload.

c. The revision to the internal review system voted by the Commission on January 18, 1983 will substantially reduce the time involved in processing appeals. Secondly, we have proposed revisions to existing appellate regulations ~~which~~ provide for record closure after 50 days, use of an adverse inference when a party fails to provide information or files within specified deadlines, and elimination of interlocutory or partial appeals.

Increased use of format decisions in routine appeals will continue. Commission experience has demonstrated that the use of formats on procedural matters, which simply involve checks for regulatory regularity, can be quickly processed.

The office projects continued productivity increases as a result of the increasing experience of the staff. The increased productivity will be enhanced through internal changes in operating procedures, thereby creating additional time for attorneys to devote the reviewing files and writing decisions.

d. No. The appellate and the hearings processes are too dissimilar.

e. In addition to reducing EEOC processing time at the hearing stage, three things can be done:

- Require agencies to adequately staff and train employees in their investigative program;
- Revise current regulations to remove built-in inefficiencies; and
- Provide consulting services to revise internal procedures to comport more closely with rapid-charge-processing procedures EEOC uses in the non-Federal sector.

Program III - State and Local Grants

Question No. 14

On p. 31 you are requesting less funding for FEP agencies. In light of the increased number of certified FEPs and the predicted increased FEP intake (p. 35), why have you chosen to decrease funding for FEPs instead of maintaining or increasing this funding? Won't reduced Federal funds further reduce FEPs ability to process charges so that although EEOC's inventory will decrease by almost 15,000 between 1983 and 1985, FEP inventories will increase by over 3,600, negating over 25 percent of EEOC's improvement?

Answer

The budget request on page 31 is the same amount as the President's request for FY 1983--level funding at $18 million. EEOC is operating at present under a continuing resolution which added $500,000 more than requested. These additional funds are being used to fund the second year of inventory-reduction contracts for agencies requiring them to bring their inventories current. This program, authorized in FY 1982, was intended to last for two years. It is proceeding on schedule.

The request for level funding is based upon FEP agencies' projected capacity to produce actual charge resolutions in FY 1984. At present, the requested amount is adequate to fund agencies' full capacity to produce resolutions under contract.

With regard to certification, EEOC contracts with 75 designated FEP agencies. Those which are certified are ones with a history of performance under contract and a level of acceptance exceeding 95 percent. Certification means that EEOC is able to accept FEP agencies' resolutions for contract payments without a 100 percent case-by-case review of their final work products. While certification reduces the administrative burden upon agencies and upon EEOC, it does not necessarily entail a substantial increase in agency production of charge resolutions.

QUESTIONS SUBMITTED BY SENATOR HOLLINGS

Question No. 1

Why are the grants to State and local agencies being reduced by $500,000 in Fiscal Year 1984, while the EEOC's budget is increasing by nearly $8,000,000?

Question No. 2

The budget justification on page 35 displays a reduction in the number of charges closed by State and local agencies. A footnote indicates that funding formerly provided to increase productivity was exhausted in Fiscal 1983. The same table shows unresolved charges more than doubling between 1983 and 1988.

In view of the Reagan Administration's efforts to rely on the States, why is EEOC reducing support of these agencies in the fact of demonstrated increasing workload at the State and local level?

Answer

EEOC's budget request for FY 1984 does not represent a reduction from its FY 1983 request of $18 million. Funds referenced in the footnote were earmarked under a two-year program specifically for agencies identified as having aging inventories, and designed to bring their inventories current.

The request for level funding is based upon FEP agencies' projected capacity to produce actual charge resolutions in FY 1984. At present, the requested amount is adequate to fund agencies' full capacity to produce resolutions under contract.

SUBCOMMITTEE RECESS

Senator **RUDMAN**. This subcommittee is now going to stand in recess until Thursday, April 7, when we will review the budget request for the Department of Justice.

[Whereupon, at 10:50 a.m., Thursday, March 24, the subcommittee was recessed, to reconvene April 7, 1983.]

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1984

THURSDAY, APRIL 7, 1983

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 10:45 a.m., in room S–146, the Capitol, Hon. Warren Rudman presiding.

Present: Senators Rudman and DeConcini.

DEPARTMENT OF JUSTICE

ORGANIZED CRIME DRUG ENFORCEMENT PROGRAM

STATEMENT OF RUDOLF W. GIULIANI, ASSOCIATE ATTORNEY GENERAL

ACCOMPANIED BY:

- **KEVIN D. ROONEY, ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION**
- **DAVID MARGOLIS, CHIEF, ORGANIZED CRIME SECTION**
- **CHARLES R. NEILL, CONTROLLER**
- **JOHN R. SHAFFER, DIRECTOR, BUDGET STAFF**

BUDGET REQUEST

Senator **RUDMAN**. The subcommittee will come to order.

Today we will complete our hearings on the fiscal year 1984 budget requests of the Department of Justice. Our first request is that of the organized crime drug enforcement program. This program was announced for the first time by President Reagan on October 14, 1982 and received $127.5 million in last December's continuing resolution to fund the program in this fiscal year.

Appearing on behalf of the fiscal year 1984 request is the Associate Attorney General, the Honorable Rudolph W. Giuliani.

Mr. Giuliani, we are pleased to have you with us today to give us a progress report on the program. Please proceed with your statement.

GENERAL STATEMENT

Mr. **GIULIANI**. Mr. Chairman, I will briefly summarize the statement that I submitted for the record and then answer any questions that you have.

17-687 O - 83 - 36

I would like to take this opportunity to express our appreciation for the support this committee provided in approving the funding for this program during the current fiscal year.

The administration is requesting full year funding for the task force initiative for 1984. The request for the organized crime drug enforcement appropriation totals 1,130 staff and $89,949,000. This request is $16,000,000 lower than reflected in my House statement. This $16,000,000—$10,000,000 for the cooperative agreement program and $6,000,000 for prison expansion—is now included in the 1983 jobs bill. The administration will be sending you conforming budget amendments shortly. This request represents the full year funding for the components of the Department of Justice which are participating in the task force effort. However, the President's total request for the drug task force initiative is 1,630 positions and $150,816,000. Approximately 500 positions and $76.8 million of this total are included in other appropriations. Of this amount, $28 million, which was in the OCDE account last year, is being requested for the FBI in 1984; and 500 positions and $32,867,000 are requested directly by the Department of the Treasury to provide for participation in drug task force activities.

On October 14 of last year, the President and the Attorney General announced a comprehensive eight-point program that in President Reagan's words will "expose, prosecute, and ultimately cripple organized crime in America."

I want to discuss what we regard as the essential component to this important initiative with you today, and address where we are in the establishment of the task forces in 12 areas around the Nation, which will attack international and domestic drug trafficking and other organized criminal activity.

In December, the Congress appropriated $127.5 million for the task force program for the remainder of this fiscal year. It was a prompt and far-reaching decision in the public interest. We have now established 12 task forces across the United States in addition to the task force in south Florida. These task forces under the direction of the Attorney General will work closely with State and local law enforcement officials.

Following the south Florida example, they utilize the law enforcement resources of the Federal Government, including the FBI, the Drug Enforcement Administration, IRS, ATF, the Immigration and Naturalization Service, the U.S. Marshals Service, the U.S. Customs Service and the Coast Guard. In addition, in some regions, Department of Defense tracking and pursuit capability will be made available. These task forces will allow us to mount an intensive and coordinated campaign throughout the country against international and domestic drug trafficking and other organized criminal enterprises.

PERSONNEL ALLOCATIONS

The organization of the task forces is now in place. The task forces are operational although not yet fully operational, and the program is on schedule. Our total personnel allocations are now being completed. We have now allocated all of the task force investigative positions and over 90 percent of the task force assistant

U.S. attorney positions to the various offices across the Nation. Initially, personnel allocations for the headquarter cities were made, followed by agent and prosecutor allocations in a second city in each region. We plan to continue to phase agents and prosecutors into the program during the spring and we will expect to be at full strength by the end of the summer, which is precisely the schedule that we outlined in December.

The agents and prosecutors being assigned are experienced agents and prosecutors. The vacancies those assignments create will be filled by newly recruited personnel, and many of them already have been selected and are in training. One of the program's important aspects is that it is case oriented with no bureaucratic excess. Here in Washington we have appointed a program administrator with a staff of three or four persons who are being detailed from various components of the Department. In each region, there is an assistant U.S. attorney task force coordinator with a staff of only two or three, depending on the size of the region.

There will be careful monitoring of the task force effort by the Department and by participating agencies. The guidelines approved by the Attorney General will aid that process. Case assignments have also proceeded on schedule. At this point a total of 38 cases have been selected for task force investigations. Two major drug investigations have been selected for the headquarter city in each of the 12 task force areas. In addition, one major case has been selected in a second city within each region. Each of these cases is currently being investigated.

Let me stress that all of these cases are what our investigative agencies define as high quality cases—those involving major trafficking by major organized crime groups.

At this time, the U.S. attorneys are meeting with the task force agency coordinators to make further case selections. This process should be completed within the next 3 weeks and we expect that there will then be well in excess of 100 major cases under investigation by the task forces.

The task forces will enhance existing Federal enforcement efforts against drugs and organized crime. The 12 new task forces are supplementing the FBI, DEA, Customs, and U.S. attorneys' ongoing efforts against organized criminal groups dealing in drugs.

In performing their functions, these task forces will have available computers and automated data processing equipment, sophisticated communications capability, aircraft, and equipment for court-approved electronic surveillance, the tools that are necessary to dismantle the highly sophisticated drug trafficking apparatus that exists in our country today.

The 1984 request for the OCDE appropriations represents full-year funding for the Department of Justice participation in the task forces. We anticipate having all authorized positions filled by the end of the current fiscal year, and will require sufficient resources for related personnel costs. No additional task force personnel are being requested in 1984, although the proposed budget does include an increase in $6.8 million for automated data processing equipment—$1.8 million for DEA and $5 million for the FBI.

The major difference between the fiscal year 1983 and the fiscal year 1984 requests is that in 1983, all funds for the program were included in a single appropriation. In 1984, the administration is requesting separate appropriations for the Department of Justice and the Department of the Treasury. The Attorney General will continue to have full responsibility for the program and will determine the level of participation required from the Department of the Treasury.

I am pleased to report to you that this entire effort has been marked by the utmost degree of cooperation among the participating agencies.

PRESIDENTIAL COMMISSION ON ORGANIZED CRIME

There is one new item in the proposed 1984 OCDE budget. The administration is requesting an additional 20 positions, 19 work-years, and $2,500,000 for the establishment of a Presidential Commission on Organized Crime. If approved, the President will appoint an Organized Crime Commission composed of 15 distinguished Americans from diverse backgrounds and professions with practical experience in criminal justice and in combating organized crime. The Commission, which would continue for 3 years, will undertake a region-by-region analysis of organized crime's influence, assess the data it gathers, and hold public hearings on its findings. Not only will the work of this Commission lead to important legislative recommendations, but it will also heighten public awareness and knowledge about the threat of organized crime and mobilize citizen support for its eradication. While it is our belief that we at the Federal level have a degree of expertise regarding organized crime, we believe it is imperative to seek the opinions of other knowledgeable persons who may not presently be with the Federal Government.

In conclusion, I believe this administration has made clear its commitment to attacking the drug trafficking problems we are presently experiencing. I am confident that the implementation and continued operation of the initiatives I have discussed today will have a significant impact on these problems. I want to acknowledge the continuing support of this subcommittee and thank each of you for your interest in these endeavors.

[The statement of Ralph W. Giuliani follows:]

PREPARED STATEMENT OF RUDOLPH W. GIULIANI

ASSOCIATE ATTORNEY GENERAL

DEPARTMENT OF JUSTICE

Mr. Chairman and members of the Subcommittee, I am very pleased to be here today to testify before you for the first time in support of what is, perhaps the most important federal law enforcement initiative in recent times--the Organized Crime Drug Enforcement (OCDE) program. I would like to take this opportunity to express our appreciation for the support this committee provided in approving the funding for this program during the current fiscal year. It is gratifying to find that we share a mutual commitment to dealing with this urgent problem of paramount concern to all of us.

The Administration is requesting full-year funding for the Task Force initiative for 1984. The request for the Organized Crime Drug Enforcement appropriation totals 1,130 staff and $89,949,000. This request is $16,000,000 lower than reflected in my House statement. This $16,000,000 -- $10,000,000 for the Cooperative Agreement Program and $6,000,000 for prison expansion -- is now included in the 1983 Jobs Bill. The Administration will be sending you conforming budget amendments shortly. This request represents the full-year funding for the components of the Department of Justice which are participating in the Task Force effort. However, the President's total request for the Drug Task Force initiative is 1,630 positions and $150,816,000. Approximately 500 positions and $76.8 million of this total are included in other appropriations. Of this amount, $28.0 million, which was in the OCDE account last year, is being requested for the FBI in 1984; and 500 positions and $32,867,000 are requested directly by the Department of the Treasury to provide for participation in Drug Task Force activities.

Before going into the details of our request, I would like to take a few minutes to provide you with some background regarding the need for the Drug Task Force initiative and to describe the nature of the program.

As you know, Mr. Chairman, in recent years this nation has been plagued by an outbreak of crime unparalleled in our history and unequalled in any other free society. The perniciousness of crime in America has been fostered of late by two related developments. Crime has become increasingly organized. And organized crime has become especially lucrative because of the enormous market for illicit drugs. Drugs and organized crime have combined to wreak havoc in our communities and in our lives. The combination of drug trafficking and organized crime represents the most serious crime problem facing this country today. Directly or indirectly, it threatens each person and institution in this country.

Figures in a ledger book cannot describe accurately the real nature and effect of the drug problem. The real costs are in human lives and human suffering. To obtain money for drugs, criminals commit huge numbers of offenses. There is a massive toll of violent crimes against innocent victims and an enormous toll of serious property crimes. Half of all jail and prison inmates regularly used drugs before committing their offenses.

Some studies have indicated that 50 to 60 percent of all property crimes are drug-related. Researchers found in a study of 243 addicts in one city that they had committed a total of 500,000 crimes over an 11-year period.

Crimes now touches about one-third of all households in the United States every year.

The profiteers in this far-reaching pattern of human misery are the organizations in this nation which deal in drugs. The popular notion that the syndicate -- or traditional organized crime -- stays out of drugs is simply not true. Many of the syndicate's families have developed elaborate drug trafficking networks. Virtually every one of them is involved in drug trafficking in one way or another.

But the problem of organized crime today is by no means limited to its traditional form. In the past two decades, we have witnessed the emergence of new organized criminal enterprises dealing in drugs and the other rackets which traditionally had been controlled by the syndicate. These emerging groups have entered the drug business, often in competition with traditional organized crime.

Violence has become a way of life for the criminal organizations which deal in drugs. Judges, prosecutors, agents, witnesses and cooperating co-defendants have been threatened, assaulted and, in some instances, killed. Violence is the primary tactic of drug trafficking organizations and money is their common objective.

Equally serious, we see public officials at all levels being corrupted by drug money. We have reports of rural sheriffs and police officers accepting payments of $50,000 or more just to "look the other way" while traffickers make a single landing at a makeshift airport. Recently, we have experienced a situation where a reserve Coast Guard officer involved in drug interdiction in the South Florida Task Force was bribed to provide operational information to drug smugglers. The dollar amounts involved are so great that bribery threatens the very foundation of law and law enforcement.

The proceeds from drug sales also enable organized crime to carry out an array of other serious crimes, including the infiltration of legitimate business firms, money laundering and bank fraud which weaken key parts of the economy.

In a real sense, all of us have been touched in some way by the adverse effects of drug trafficking and drug abuse in the United States.

During the last two years we have recognized the full dimensions of the threat posed by organized crime and its involvement in drug trafficking. This Administration has implemented a series of initiatives to make more efficient use of our limited resources in the fight against drug trafficking and organized crime.

Early in this Administration, Attorney General William French Smith directed every United States Attorney to establish a Law Enforcement Coordinating Committee to assess the differing crime problems in each district throughout the Nation -- and to bring to bear a coordinated federal, state, and local effort against the kinds of crime that are of greatest concern in each federal district. Despite local variations, every Law Enforcement Coordinating Committee -- except one -- has identified drugs as the chief crime problem in its district.

We have reorganized the Drug Enforcement Administration and, for the first time, have brought the FBI into the fight against the number one crime problem to complement the excellent work of the DEA. We have gained not only the FBI's resources, but also its many years of experience in fighting organized crime. In January of 1982, the FBI had less than 100 significant drug investigations underway. In January of 1983, the FBI had 1,115 -- nearly twelve times as many -- with about one-third being joint investigations with DEA.

Indeed, the FBI and DEA under Judge Webster and Acting Administrator Mullen have scored dramatic successes against organized crime. Working with the Justice Department's Organized Crime Strike Forces, the Bureau has helped to indict and convict numerious high-level members of syndicate families -- including the top structure of organized crime families in some cities.

As you recall, the Attorney General's Task Force on Violent Crime assessed the crime problem in this country and presented 64 recommendations to improve our federal effort. Approximately seventy-five percent of those recommendations have been implemented.

Additionally, the Department successfully sought Congressional enactment of an amendment to the posse comitatus law, so that we may now make appropriate use of military resources -- particularly tracking and intelligence capabilities -- in the fight against drug traffickers. Through amendments to the Tax Reform Act, crucial information is more readily available to law enforcement -- and more tax cases are possible against drug dealers and organized criminals.

When this Administration took office, South Florida had become a focal point of drug-related violence and corruption. At the direction of the President, and under the auspices of Vice President Bush, personnel from the Departments of Justice, Treasury, Transportation and Defense have mounted a coordinated attack on drug smuggling and trafficking in South Florida. Our efforts in South Florida have achieved notable successes by slowing the flow of illegal drugs into South Florida and by galvanizing the community to a new degree of optimism about the drug problem and its associated violence.

To accomplish our initiatives in South Florida, however, law enforcement resources were shifted from other areas of the country -- and drug traffickers began to shift their routes toward those areas. Clearly, a national approach was needed. Many months ago, this Administration began drafting the initiatives to address the need for a national effort against drug trafficking -- an effort that incorporates new law enforcement resources, and recognizes the role of organized crime.

On October 14, the President and Attorney General Smith announced a comprehensive Eight Point Program that, in President Reagan's words, will "expose, prosecute, and ultimately cripple organized crime in America." I want to discuss the central component to this important initiative with you today, and address where we are in the establishment of the Task Forces in 12 areas around the nation which will attack international and domestic drug trafficking and other organized criminal activity.

In December, the Congress appropriated $127.5 million for the Task Force Program for the remainder of this fiscal year.

It was a prompt and far-reaching decision in the public interest, and all of us in law enforcement are grateful.

Improving upon our experience with the South Florida Task Force, and recognizing the increasing organized crime involvement in drug trafficking, we have established 12 additional Task Forces in key areas in the United States. These Task Forces, under the direction of the Attorney General, will work closely with state and local law enforcement officials. Following the South Florida example, they will utilize the law enforcement resources of the Federal Government including the FBI, DEA, IRS, ATF, Immigration and Naturalization Service, the United States Marshals Service, the United States Customs Service and the Coast Guard. In addition, in some regions, Department of Defense tracking and pursuit capability will be made available.

These Task Forces will allow us to mount an intensive and coordinated campaign against international and domestic drug trafficking and other organized criminal enterprises. Thus, refining the South Florida model, they will target and pursue the organized criminal enterprises trafficking in drugs.

Several points emphasize the significance of these new Task Forces in the fight against organized crime and drug trafficking. Our program has provided the first major infusion of new agents into the FBI and DEA in about a decade. It means about a twenty-five percent increase in the number of agents devoted to drug work. The new Task Forces will complement the work of the Department's existing Organized Crime Strike Forces. Unlike prior federal drug efforts that focused on street level violators, our Task Forces will concentrate on destroying the top levels of organized drug trafficking. These Task Forces are a major new undertaking -- and they have the resources to match the significance of the undertaking.

The network of Task Forces cover the entire country. The areas covered by each Regional Task Force are as follows:

New England Region: Massachusetts, Maine, New Hampshire, Vermont, Connecticut, Rhode Island, Western and Northern Districts of New York. Headquarters: Boston.

New York-New Jersey Region: Southern and Eastern Districts of New York, New Jersey. Headquarters: New York City.

Mid Atlantic Region: Maryland, Virginia, Washington, D.C., Delaware, Eastern and Middle Districts of Pennsylvania. Headquarters: Baltimore.

Southeast Region: Georgia, North Carolina, South Carolina, Alabama, Middle and Eastern Districts of Tennessee. Headquarters: Atlanta.

Gulf Coast Region: Texas, Louisiana, Southern District of Mississippi. Headquarters: Houston.

South Central Region: Missouri, Arkansas, Oklahoma, Kansas, Western District of Kentucky, Western District of Tennessee, Northern District of Mississippi, and part of Illinois. Headquarters: St. Louis.

North Central Region: Indiana, most of Illinois, Wisconsin, Iowa, Minnesota. Headquarters: Chicago.

Great Lakes Region: Michigan, Ohio, West Virginia, Western District of Pennsylvania, Eastern District of Kentucky. Headquarters: Detroit.

Mountain States Region: Colorado, Utah, Nebraska, Wyoming, North Dakota, South Dakota, Idaho, Montana. Headquarters: Denver.

Los Angeles-Nevada Region: Nevada and Central District of California. Headquarters: Los Angeles.

Northwest Region: Washington, Oregon, Hawaii, Alaska, Northern and Central Districts of California. Headquarters: San Francisco.

Southwest Border Region: Arizona, New Mexico, Southern District of California. Headquarters: San Diego.

The South Florida Task Force will continue in existence and will cover Florida, Puerto Rico and the U.S. Virgin Islands.

On January 20, the Attorney General issued the Guidelines for The Drug Enforcement Task Forces. The Guidelines were developed jointly by all of the agencies involved in the Task Forces, and they represent a high-water mark for federal law enforcement cooperation. A copy of the Guidelines is attached to my statement.

Significantly, the organization of the Task Force is now in place. The Task Forces are operational, and the program is on schedule.

We have now allocated all of the Task Force investigative positions and over 90% of the Task Force Assistant United States Attorney positions to the various offices across the nation. Initially, personnel allocations for the headquarters cities were made, followed by agent and prosecutor allocations in a second city in each region. We plan to continue to phase agents and prosecutors into the program during the spring, and we expect to be at full strength by the end of the summer.

The agents and prosecutors being assigned are experienced individuals. The vacancies those assignments create will be filled by newly-recruited personnel -- and many of them already have been selected and are in training.

One of the program's important aspects is that it is case-oriented -- with no bureaucratic excess. Here in Washington, we have appointed a program administrator with a staff of only three or four persons, who are being detailed from various components of the Department. In each region, there is an Assistant U.S. Attorney Task Force coordinator with a staff of only two or three.

There will be careful monitoring of the Task Force effort by the Department and the participating agencies. The Guidelines approved by the Attorney General will aid that process and ensure its integrity.

Case assignments have also proceeded on schedule. At this point, a total of 38 cases have been selected for Task Force investigations. Two major drug investigations have been selected for the headquarters city in each of the 12 Task

Force areas. In addition, one major case has been selected in a second city in each region. Each of these cases is currently being investigated.

Let me stress that all of these cases are what our investigative agencies define as high-quality cases -- those involving major trafficking by major organized crime groups.

At this time, the United States Attorneys are meeting with the Task Force agency coordinators to make further case selections. This process should be completed within the next 3 weeks, and we expect that there will then be well in excess of 100 major cases under investigation by the Task Forces.

The Task Forces will enhance existing federal enforcement efforts against drugs and organized crime. The 12 new Task Forces are supplementing the FBI, DEA, Customs, and U.S. Attorney efforts directed against organized criminal groups dealing in drugs. The work of the Organized Crime Strike Forces and the South Florida Task Force will continue. We anticipate that the Task Forces will have close working relationships with state and local enforcement agencies.

In performing their functions, these Task Forces will have available computers and automated data processing equipment, sophisticated communications capability, aircraft, and equipment for court-approved electronic surveillance. The tools that are necessary to dismantle the highly sophisticated drug trafficking apparatus that exists in our country today.

As I have stated above, the 1984 request for the OCDE appropriation represents full-year funding for the Department of Justice participation in the Regional Drug Task Forces. We anticipate having all authorized positions filled by the end of the current fiscal year and will require sufficient resources for related personnel costs. No additional Task Force personnel are being requested in 1984 although the proposed budget does include an increase of $6.8 million for automated data processing equipment -- $1.8 million for DEA and $5.0 million for the FBI.

The major difference between the FY 1983 and the FY 1984 request is that in 1983 all funds for the program were included in a single appropriation. In 1984, the Administration is requesting separate appropriations for the Departments of Justice and Treasury. The Attorney General will continue to have full responsibility for the program and will determine the level of participation required from the Department of the Treasury. I am pleased to report to you that this entire effort has been marked by the utmost degree of cooperation among the participating agencies. We anticipate a continuation of the good working relationships which have developed between all the parties involved in this effort.

There is one new item in the proposed 1984 OCDE budget. The Administration is requesting an additional 20 positions, 19 workyears and $2,500,000 for the establishment of a Presidential Commission on Organized Crime. If approved, the President will appoint an Organized Crime Commission composed of fifteen distinguished Americans from diverse backgrounds and professions with practical experience in criminal justice and combatting organized crime. The Commission, which would continue for three years, will undertake a region-by-region analysis of organized crime's influence, assess the data it gathers, and hold public hearings on its findings. Not only will the work of this Commission lead to important legislative recommendations, it will also heighten public awareness and knowledge about the threat of organized crime and mobilize citizen support for its eradication.

While it is our belief that we at the Federal level have a degree of expertise regarding organized crime, we believe it is imperative to seek the opinions of other knowledgeable persons who may not presently be with the Federal government.

In conclusion, I believe this Administration has made clear its commitment to attacking the drug trafficking problems we are presently experiencing. I am confident that the implementation and continued operation of the initiatives I have discussed today will have a significant impact on these problems. I want to acknowledge the continuing support of this Subcommittee and thank each of you for your interest in these endeavors. I will be pleased to answer any questions you may have.

RECRUITMENT OF QUALIFIED PERSONS

Senator **Rudman**. Thank you very much.

I have a few questions—and we will have others submitted to you for written answers.

You are recruiting and training a number of people and doing it in a fairly short time. Can you tell the subcommittee a little about the qualifications of the people that you recruit in these various areas?

Mr. **Giuliani**. The FBI and DEA, of course, recruit agents. Assistant U.S. attorneys are being hired by the U.S. Attorneys' Office.

You are right, it is a large number in a relatively short period of time. The reason that we designed this at the beginning to be a phase-in rather than starting the task forces at full strength on a given date, like January 1 or February 1, is that we realized we would have to be careful about bringing on, in essence, 1,600 new people without proper screening and training. That is why it is going to take us 6 to 9 months to get these task forces to full strength. The FBI and DEA are insisting upon qualifications, the same qualifications that they insisted upon before. There will be no compromise on the people that we need to bring into those agencies. And the same thing is true with U.S. attorneys.

Senator **Rudman**. You are hiring, I take it, prosecutors that will be assigned to the program on a full-time basis?

Mr. **Giuliani**. That is correct. We are actually not hiring. The U.S. attorney has designated some people on the staff, who have experience on drug cases to be assigned to the task forces. In return for doing that, he can go out and hire, 1, 2, or 3 U.S. assistant attorneys to do the regular work.

Senator **Rudman**. It is more likely than not the people that are doing the prosecuting here will be people that have prior experience in the area?

Mr. **Giuliani**. That is correct.

Senator **Rudman**. I think this is important and I wanted to make that point because, in my own experiences, these are very special and difficult kinds of cases to prosecute. Although newly hired assistant U.S. Attorneys usually are qualified and very good, it is much better to break them in on interstate car theft and things of that sort rather than taking on the kind of case you are taking on in this particular matter.

ADP AND VOICE PRIVACY

The FBI and DEA are asking for significant amounts of money for ADP and voice privacy purchases. Why then does the OCDE request also contain money for these purchases?

Mr. **Giuliani**. Under the OCDE budget, we try to break out those ADP and voice privacy items that were necessary to carry on this task force effort. One of the things we realized was if we are going to ask the Bureau or the Drug Enforcement Administration to get involved in possibly 1,150 more investigations, many of which are international and involve sophisticated and difficult organizations to penetrate, it would be putting a terrible burden upon an already somewhat antiquated ADP system and voice privacy system. Therefore, what we try to do is break out the costs that would involve routine investigations and deal with that separately, both in the 1983 supplemental and the 1984 budget.

DIRECT FUNDING—U.S. COAST GUARD

Senator **Rudman**. You don't have any direct funding in the 1984 request for the Coast Guard. Can you explain the reason for that?

Mr. **Giuliani**. The Coast Guard funding is going to be handled by the national interdiction system that was announced several weeks ago. They are going to make an estimate of exactly what it is the Coast Guard needs to increase its effectiveness in interdiction.

The focus of these task forces is investigative in nature. Their thrust is to penetrate organizations internally who deal in drugs and externally only to the extent that we would be doing investigative work. Interdiction is going to be handled by the national interdiction system.

Senator **Rudman**. Will there be some merger of the interdiction function into the task force on particular projects?

Mr. **Giuliani**. Exactly. Each task force will have at at least one, probably more, representatives of the Coast Guard and a number of people from customs who will be doing interdiction work so that we can tie the two things together. But the task forces themselves, their primary functions will be investigations and prosecutions.

DETERMINATION OF OCDE CASES

Senator **Rudman**. Who will make the decisions as to which of the cases that come into a particular region are routine and which cross your threshold for handling by OCDE?

Mr. **Giuliani**. The agency in the first instance will present the case to the U.S. attorney and say: I believe this is a case that is worthy of using task force's resources. Usually that will have to be a case that has potential for penetrating large organizations and not necessarily in every case but in most cases one that requires multi-agency cooperation. The U.S. attorney then would make the initial decision and let the task force coordinator know that and then the role of the task force coordinator will be to see if he agreed or disagreed with that decision. Obviously, if the case fits, then the task force will go and investigate. If it looks like the task force's resources were not being properly used, then the task force coordinator will have the ability to say no, it should not be a task force case.

RICO STATUTES

Senator **Rudman**. Let me ask one other question before turning to my friend from Arizona, Senator DeConcini.

The Senate's Permanent Subcommittee on Investigations held hearings in Chicago about 6 weeks ago at the invitation of the Chicago Crime Commission on the whole question of organized crime, some dealing with drugs and a great many dealing with public corruption. One of the things that came out in that full day of hearings was the use of the RICO statutes.

Of course, RICO statutes have been used fairly extensively on the criminal side, but the civil side of the RICO statutes was enacted to enable prosecutors to put some of these people out of business. Yet there has been, it seems a general reluctance, almost a policy reluctance, maybe preceding this administration, in using the civil side of the RICO statutes.

Will you comment on that? Why don't you tell us about your views on this, because the civil side of the RICO statutes in terms of putting people out of business, in terms of attacking their assets and wiping them all away in one felt swoop is very important. You may meet the higher burden of proof to get the criminal conviction, but the apparatus is still in place and so they simply move another fellow up in the ladder.

I wonder if you would just give us some general comment on the civil side of RICO and how it might be used by a particular task force.

Mr. **Giuliani**. Mr. Chairman, I am going to ask Mr. Dave Margolis, who is in charge of the Organized Crime Section in the Department of Justice, and also the one who will put together the task forces for us and handle the administrative aspects, to comment on that. He probably has more experience about RICO.

Mr. **Margolis**. It is not easy to get prosecutors to think in the civil area and that is for civil RICO. It is something we have been spending some time on. We intend to use a lot more in RICO injunction relief and matters like that. But, it is not easy to shift gears when talking about criminal prosecutions and civil relief. Probably our big hope will be to combine in selected civil RICO actions as in those brought in Newington, N.J. by our Newark office about 6 months ago. We think we are going to see a lot more of it but it is a slow process. It is not going to replace the criminal process. You are right, there has to be more emphasis on the use of civil RICO.

Senator **Rudman**. We had testimony at that hearing from a professor at the Notre Dame Law School, Mr. Blakey who I believe had some major part in drafting these statutes some years ago. He made a strong case that what you say is absolutely correct, that prosecutors tend to think of criminal prosecutions. On the other hand, he also made the point that not enough effort has been spent. He wasn't critical of this administration, in particular. But no effort has been carried forth to train U.S. attorneys in the civil use of the RICO statutes which, if used in tandem with the criminal aspects of those statutes, might well help you with what you are trying to do with the funds you are asking for today.

I make that as a general observation and I would like to hear from you in coming years as to what is being done.

Mr. GIULIANI. Mr. Chairman, in that connection, 3 months ago we did have a conference with assistant U.S. attorneys run by the Criminal Division and the Civil Division to discuss ways in which to use the RICO statutes for civil purposes. Maybe that will help in focusing attention on the use of it.

Senator RUDMAN. In terms of seizing large amounts of money and other assets and all the things the RICO would allow, you have a lower standard of proof than you have in the criminal cases and I think it is something you ought to be looking into. I know you have great capabilities in that office and I expect you might be able to do that.

Senator DeConcini.

INTERAGENCY COORDINATION

Senator DECONCINI. Mr. Chairman, thank you very much.

I thank you for your presentation and the fine work you have done in the Justice Department. I understand you are leaving soon to go to New York and I am glad for the Southern District of New York but sorry for the Justice Department.

I would like to ask a couple of questions.

One of the justifications for establishing the special account for the OCDE Task Force program was to encourage better interagency coordination and to provide easier oversight.

What is being done in this coordinated effort? Your request this year splits funding among several agencies, $28 million shifted back to the FBI and almost $33 million goes to Treasury, and you answered the question about the Coast Guard. It appeared to me to be returned to the same fragmented way the law enforcement has been operating for some time.

I wonder if you could explain your justification why you are doing this.

Mr. GIULIANI. The original appropriations for midyear were going to have to be done almost on emergency basis. The Attorney General sat down and worked out with the Department of Treasury what they believe they needed and what we believed they needed. Dave Margolis handled most of those negotiations and worked very harmoniously. By then we were very close in terms of what we thought they needed and what they thought they needed, how they should use those resources. And the guidelines that we have been able to work out for the task forces—which I have detailed—are unanimously agreed by all the participants—by the FBI, DEA, by Customs, by all of the Treasury agencies that were involved.

We thought the system was working well enough and that we had worked out the major problems that existed between the two agencies, basically Justice and Treasury, that there would be no harm to the task force effort if it was done as a direct appropriation.

The Attorney General will continue to have complete control over the appropriation to the Justice Department so that he can make shifts and changes in the FBI.

Senator DECONCINI. $32.9 million is going to go to Treasury. What control is the Attorney General going to have to see that it is used for the purposes of the task forces?

Mr. GIULIANI. The guidelines require that those resources be used for task force efforts.

Senator DECONCINI. They are clearly identified? The $32.9 million, what is it for?

Mr. GIULIANI. If they were not used for task forces purposes, then in essence——

CONTROL OF OCDE FUNDS

Senator DECONCINI. Justice is satisfied that there is control to see that is accomplished?

Mr. GIULIANI. Yes, sir.

Senator DECONCINI. That is what I wanted to know.

Out of curiosity, how does Justice do that? Do you or do you not sit down and talk to somebody in the Treasury?

Mr. GIULIANI. At first the committee that I was chairman of worked out what the initial allocations will be. We got input from everyone, FBI, DEA, Treasury people. We worked out the allocations to which now everyone has agreed. If there is to be any change, that same committee will have to agree that those changes were made so that it would have to be a joint decision and then if there were disagreement ultimately between the Attorney General and the Secretary of the Treasury, then that will have to be worked out by the Cabinet Council or the President.

NATIONAL INTERDICTION SYSTEM

Senator DECONCINI. You mentioned the national interdiction effort that was announced a week or so ago by the White House with Vice President Bush heading it up with the coordinating council and advisory board and what have you, which the Attorney General and the Secretary participate in.

Do you anticipate that the Vice President on this interdiction effort will play a major role in the task force?

Mr. GIULIANI. Well, there will be an overlapping role. The reason for the separate interdiction effort is to put direct emphasis on interdiction. To do it as part of the task force effort, there was a fear that interdiction will not receive the kind of direct attention——

ROLE OF THE VICE PRESIDENT

Senator DECONCINI. Maybe I gave you the wrong question.

What I want to know is, do you anticipate that if there were a disagreement between the Secretary of the Treasury and the Attorney General, that the Vice President might resolve that as it relates to the task force?

Mr. GIULIANI. Yes.

Senator DECONCINI. He will?

Mr. GIULIANI. Certainly with regard to interdiction.

Senator DECONCINI. I am talking about the task, with the Treasury involved with the task. What if there is disagreement funding project cases, assignment of agents, and the Secretary and the Attorney General can't or have not been able to resolve it because of traveling or busy or what have you, do you anticipate the Vice President exercising any influence there?

Mr. GIULIANI. The way the structure works now, I would say probably not, that would have been decided by the Cabinet Council or the President.

Senator DECONCINI. That has not been part of this interdiction program?

Mr. GIULIANI. That is correct.

Senator DECONCINI. Do you think that is a good way to proceed or do you think that should be considered, the Vice President moving area of coordination and usurping the necessary Cabinet officials which ought to be involved in potential disagreements? If there aren't any, then it is moot.

Mr. GIULIANI. I think there is a danger with regard to the task forces, because task forces will be involved in ongoing criminal investigations, to have decisions about even the allocation of personnel. Those decisions can sometimes get mixed up with the actual ongoing cases, if those decisions are made by the Vice President. That is why we designed, in essence, two separate efforts. Interdiction is a patrol function, it occurs outside of the United States and at the border, it does not involve criminal investigations and prosecutive decisions. The task force will be deeply involved, however, in prosecutive decisions and ongoing criminal investigations. And we thought it would be better that there be kind of a dividing line so that you wouldn't have the possibility of the Vice President or the White House involved in what could sometimes be misunderstood as decisions that affect ongoing criminal cases.

EL PASO INTELLIGENCE CENTER

Senator DECONCINI. What about intelligence from the task forces from the people that you are using, informants and undercover agents in Mexico and Honduras and other places, what kind of coordinated efforts do you have to insure that intelligence decision is kept close to the chest of the task force investigator for obvious reasons and not turned over to the interdiction? Who is going to see that flows?

Mr. GIULIANI. We hope that we will be able to use EPIC to handle that function to try and get all intelligence to EPIC, whether it be domestic intelligence or foreign intelligence.

Senator DECONCINI. How are you going to see that EPIC receives it and also gives it out to the interdiction people as well as the one supplying it?

Mr. GIULIANI. We have been using EPIC in the last several months to assist the South Florida Task Force and they also have their own sort of smaller function of EPIC in Florida because that area is affected. One possibility, in the discussion stage, is to have smaller subunits of EPIC in two or three other places to make certain the information gets to the affected area if that area is where a large amount of drugs are coming in. Also to do more to train Customs agents and Drug Enforcement agents, both, since they are most affected, to pay attention to the intelligence side to make sure they get the information to EPIC.

Insofar as getting the information out of EPIC, I think that has been working fairly well, particularly with regard to the South Florida Task Force. Our problem has been getting information in from all the places that we should be gathering.

Senator DeConcini. Have you talked to Customs yourself or have you taken any time to talk to the Customs agents in Florida, Arizona, California? There is a problem they have had with EPIC and have been reluctant to admit it publicly because they are not interested in interagency difficulties. I wonder if you have witnessed that yourself.

Mr. Giuliani. I certainly have in Florida and that is one of the reasons why we set up this, what I call, suboffice, but it is an intelligence office located in Florida dealing with information about drugs coming into Florida and I think that helped solve some of the problems with regard to the agents in Florida. I can't say anywhere else.

TASK FORCE STAFFING

Senator DeConcini. I am pleased to know you have taken the time to familiarize yourself with the problem of EPIC. It has great potential.

You indicated that the staffing plans for the task forces is complete, is that correct?

Mr. Giuliani. The numbers are complete. We have not hired everyone.

Senator DeConcini. Do you expect to have all the task forces fully staffed by the end of this year?

Mr. Giuliani. Yes, sir.

Senator DeConcini. 1983.

How will the resources available under this act be apportioned among the various regions?

Mr. Giuliani. It has been tentatively decided. Those allocations have been sent out to all U.S. attorneys and we are now in an appeal process. I got four or five letters from U.S. attorneys saying: You are not giving me enough.

Senator DeConcini. How many investigators are going to go to the southwest border task force?

Mr. Margolis. I don't have that with me.

Senator DeConcini. Give me that information.

Mr. Margolis. Keep in mind they are tentative until the appeal process is completed.

Senator DeConcini. When will that be?

Mr. Margolis. All appeals are due by next Monday and we hope to decide within 10 days.

Senator DeConcini. Supply me with what it is now and what it is after the appeal process.

One of the reasons that I was told by the Attorney General when he appeared last year that you were not going to have an office in

Arizona, you were going to have three in California that the ADP availability was in the California U.S. Attorney's Office and not in Arizona and yet you are making a request for additional automated data processing information and material for California.

What is lacking in California and also, what is in California, in the southern part of California, that isn't in the Arizona district?

Mr. GIULIANI. In trying to select core cities, we got recommendations from the FBI, DEA and Treasury agents as to where they thought it was most effective for them in a given geographic area to locate the core city. And then, although this didn't work out in every case, we basically also factored in where the largest office will be located that had not only the most hardware resources but also the most assistant U.S. attorneys because we contemplate having assistant U. S. attorneys on loan.

Senator DECONCINI. To the task force?

Mr. GIULIANI. In other words, if a district that isn't a core city district needs an additional U.S. attorney to work on a case, we anticipate having to send out U.S. attorneys at times. That is why we selected a larger office.

We also made it very clear, however, that the core city was purely administrative, that we were allocating assistant U.S. attorneys to noncore cities and they were going to be run by the U.S. attorney in that area. For example, in Arizona, the U.S. attorney will have his own assistant U.S. attorneys, he will be running the task force in the State. The only function that the coordinator has is an administrative budget one. We also said if this experience shows dust over a period of 6 months or 1 year working with this, that we made a mistake, either an administrative mistake or the action wasn't where the FBI and DEA originally thought it would be, we would be willing to readjust the core city and also to readjust the boundaries, which we have done in one case already.

Senator DECONCINI. My understanding is, in Arizona there would be some task force attorneys assigned to the U.S. attorney, the administration will be handled out of the San Diego office.

Mr. GIULIANI. That is right.

ADDITIONAL ASSISTANT U.S. ATTORNEYS

Senator DECONCINI. When the Attorney General appeared before the Judiciary Committee about 2 weeks ago for the authorization of the 1984 budget, he laid out some of these programs in numbers—and I don't have them here. But all of the new district attorneys that you are asking for are only for the task force, is that correct?

Mr. GIULIANI. That is correct.

Senator DECONCINI. Isn't there a need for additional criminal attorneys outside the task force areas for normal, if you want to call it that, cases? I know in Arizona they have not had some increases in a couple of years, they had a decrease of a couple of staff prosecutors there and I wonder how are you addressing or justifying not also asking for at least a modest growth in the prosecutorial staff outside the task forces.

Mr. GIULIANI. You are correct. U.S. attorneys' offices need an increase for both, for drugs and for general criminal and civil litigation. The 200 additional assistant U.S. attorneys in the task forces will address the drug problem. And the way we have attempted to resolve the other problems is to reallocate the positions from the litigated divisions in the Department of Justice out to the field. I believe that is 125 positions.

Senator DECONCINI. From here primarily?

Mr. GIULIANI. That is right.

Senator DECONCINI. They will be going out to the field. When is that happening?

Mr. GIULIANI. That is happening right now.

Mr. NEILL. It is being developed now.

Senator DECONCINI. There are going to be 125 dispersed throughout the Nation?

Mr. GIULIANI. That is right. And each office will be getting—Arizona, for example, will be getting an additional allocation for the task forces, several assistant U.S. attorneys will be designated to work under the task force as well as some additional assistant U.S. attorneys that are essentially positions reallocated.

Senator DECONCINI. For other matters.

Mr. GIULIANI. And they can be used for other matters.

Senator DECONCINI. I want to thank you for that information because the civil litigation in Arizona is with the Indians and BLM and land property.

Mr. NEILL. In addition to the information that the Attorney General talked about to the Judiciary Committee with respect to criminal litigation, we do have a request in the U.S. attorney's budget for 32 positions for civil litigation.

Senator DECONCINI. Thank you very much.

Thank you, Mr. Chairman.

SUBMITTED QUESTIONS

Senator RUDMAN. Thank you gentlemen. We have a number of additional questions which we will submit to you for a response in the record.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR LAXALT

Organized Crime Drug Enforcement

Please provide a breakdown of the 1983 and 1984 funds and positions for each law enforcement agency.

The breakdown is as follows:

Appropriation	1983 Pos.	1983 Amount	1984 Pos.	1984 Amount
Federal Bureau of Investigation	411	$50,839,000	411	$35,213,000
Drug Enforcement Administration	337	24,729,000	337	30,583,000
U.S. Marshals Service	12	5,756,800	12	566,000[1]
U.S. Attorneys	340	11,631,000	340	17,631,000
Federal Prison System	10	18,000,000	10	...[1]
Department of the Treasury:				
Internal Revenue Service	220	5,595,040	(...)	(...)
Bureau of Alcohol, Tobacco and Firearms	80	2,034,560	(...)	(...)
U.S. Customs	200	5,086,400	(...)	(...)
U.S. Coast Guard	...	2,000,000	...	...
Subtotal, Treasury			(500)	(32,867,000)[2]
State and local	...	1,628,200	...	3,256,000
Policy/Management	...	200,000	20	2,700,000
TOTAL	1,610	127,500,000	1,130	89,949,000

[1] $10,000,000 for CAP and $6,000,000 for prison expansion originally requested as part of OCDE will be funded instead in 1983 under the Job's Bill.

[2] Requested as a direct appropriation by Treasury in 1984.

The Committee has received a letter from the Chairman of the Treasury, Postal Service and General Government Appropriations Subcommittee expressing his concern that the Bureau of Alcohol, Tobacco and Firearms will not receive sufficient reimbursements for its expenditures in the South Florida operations. Will you please provide a response for the record to this letter, a copy of which is attached?

The South Florida Task Force operation is part of the Vice President's National Narcotics Border Interdiction System. No reimbursements are included in the Organized Crime Drug Enforcement appropriation for the Bureau of Alcohol, Tobacco and Firearms participation in the Vice President's program.

QUESTIONS SUBMITTED BY SENATOR HOLLINGS

Organized Crime Drug Enforcement

Last year we appropriated $127,500,000 for the new Organized Crime Drug Enforcement program to underwrite 12 Task Forces modeled on the success of the South Florida Task Force.

There are unobligated balances of $13,656,000 for 1983 and $17,992,000 for 1984 predicted for this appropriation. Why are these funds not being used within the fiscal year they are appropriated?

For the most part, these funds are related to construction projects in the Federal Prison System (FPS). The full amount of the carry over balance in 1983, that is $13,656,000, $13,656,000 is related to FPS construction projects. The 1984 carryover balance includes $7,992,000 in FPS construction projects of which $4,812,000 is resources appropriated in 1983 and $3,180,000 is 1984 budget authority. The remaining $10,000,000 in carryover balance is comprised of the following: the Presidential Commission on Organized Crime $2,500,000; Federal Bureau of Investigation automation, $2,500,000; DEA automation, $2,000,000 and undercover operations $6,000,000.

Funds for renovation projects are not obligated in the same year as appropriated because of the various stages of the contract process. These stages, i.e., development of structural designs, advertisement for contractor support, review of applications and actual selection, can take up to one year to complete. Moreover, this pre-contract award process requires a fund commitment of approximately two percent for any given project.

Please provide for the record a display of how the unobligated balances will be used.

Following is a chart which displays planned obligations, by project, of carry forward balances associated with the renovation of prison facilities funded under the Organized Crime Drug Enforcement program.

Federal Prison System
Planned Obligation of 1983 Carry Forward Balances

Projects	1984	1985	Total
Petersburg, VA.........	$946,000	$487,000	$1,433,000
Leavenworth, KS........	2,340,000	1,386,000	3,726,000
Ashland, KY............	880,000	438,000	1,318,000
Tallahassee, FL........	1,050,000	535,000	1,585,000
Memphis, TN............	1,650,000	917,000	2,567,000
Oxford, WI.............	1,162,000	616,000	1,778,000
Butner, NC.............	816,000	433,000	1,249,000
Total Obligations......	$8,844,000	$4,812,000	$13,656,000

Federal Prison System

Planned Obligation of 1984 Carry Forward Balances

Projects	1984	1985	Total
Otisville, NY..........	$1,514,000	$26,000	$1,540,000
Montgomery, AL.........	1,260,000	22,000	1,282,000
Butner, NC.............	342,000	16,000	358,000
Total Obligations......	$3,116,000	$64,000	$3,180,000

Last year we approved the $23,000,000 requested for corrections as part of the budget amendment for Organized Crime Drug Enforcement.

However, over the long-run, would it not be better to restrict this appropriation to the operation of the Task Forces, and budget the funds for corrections in the Support of U.S. Prisoners and Buildings and Facilities appropriations?

No. In the past, sufficient attention has not been given to the fact that the federal criminal justice sytem is a complex network of interrelated and mutually reinforcing components. For example, in 1981 and 1982, the pace of criminal investigations, prosecutions, and judicial process decisions increased and resulted in an 18 percent growth in the federal prisoner population and a concomitant increase in the pre-trial population. Today, the federal prisoner population (29,726 as of March 8, 1983) exceeds available capacity (23,988) by 24 percent, and the USMS estimates a pre-trial population of 81,000 in 1983, an increase of two percent over the past year.

Therefore, it is our intention to provide a proper mix of resources for all phases of the criminal justice enforcement system from the number of investigative and prosecutive agents and support staff hired to expanding existing prison capacity and acquiring additional jail space.

It is hoped that this system approach will minimize imbalances which compromise the achievement of our objective of disrupting the distribution and sales network or organized crime enterprises engaged in drug trafficking throughout the nation.

According to the justifications, initial allocations of 18 agents each were made to each of the 12 Task Forces on January 20th. That is a total of 216 agents. Additional allocations were to be made in late February so that more than half of the 800 agents will have been assigned.

How many of those agents are now actually in place with the Task Forces?

Each of the 12 Task Force core cities was originally assigned six FBI Agents, and six DEA Agents with the exception of New York which received 11 agents for each organization. Additionally, three agents each were assigned by both the FBI and DEA for an additional major city in each Task Force area. These cities are Charleston, Philadelphia, New Haven, Indianapolis, Omaha, Cleveland, New Orleans, Las Vegas, Newark, Phoenix, Honolulu, and Kansas City.

A total of 113 FBI Agents and 113 DEA Agents were in place in the locations set forth above as of March 25, 1983. On March 30, additional allocations were made bringing the FBI Agent allocation to 330 and the DEA Agent allocation to 270 for a grand total of 600 agents allocated to Task Force activities.

When do you expect indictments and prosecutions of organized crime figures to begin due to this effort?

Indictments of organized crime figures due to Task Force efforts should be realized in the Summer of 1983.

How many of the agents assigned to the Task Forces involve a change in the duty station?

None of the agent positions assigned to the Task Forces, to date, involved a change in duty station. However, some transfers will be necessary due to the need to replace experienced agents who have been assigned to the Task Forces.

What is the average grade and years of service of the agents assigned to the Task Forces?

FBI and DEA have not yet conducted a field-wide survey to ascertain the average grade and years of service of agents assigned to the Task Forces; however, each Task Force has been specifically instructed that experienced agents are to be assigned to work Task Force matters.

How many of the agents assigned to the Task Force received a promotion as part of their new assignment?

At this time there have been no agent promotions as a result of being assigned to work Task Force matters. Task Force Coordinators have been selected from existing supervisory positions and the FBI and DEA are currently analyzing those field supervisory allocations to identify existing positions to be backfilled as a result of these designations as coordinators.

In December we were told that the FBI would hire two training classes per month of 40 new agents each in order to provide a backfill of 760 new agents for those assigned to the Task Forces. Has the FBI been able to meet that goal?

The initial allocation to the FBI from the Organized Crime Drug Enforcement monies provides for 204 agents. The present hiring plan provides for hiring 483 agents in 1983, which will bring new agents on board to backfill these positions vacated as a result of assignment to the task forces, replace normal attrition of approximately ten per month and hire the 150 agents added to the Foreign Counterintelligence program by Congressional action. No difficulty is anticipated in hiring and training this number of agents.

The 1983 appropriation included $12,716,000 to fund 500 positions in the Department of the Treasury. These positions are now funded directly by Treasury. Are all 500 of those positions funded directly by Treasury? Are all 500 of those positions funded for 1984?

Yes, it is our understanding that the Department of the Treasury is directly requesting $32,867,000 in OCDE related funding in 1984 to fund those 500 positions.

Last year this appropriation contained $2,000,000 for the Coast Guard. How much is budgeted in 1984 for the Coast Guard for OCDE activities?

No funding is included in the OCDE request for the Coast Guard in 1984. Funding for Coast Guard participation in the OCDE program is expected to come from the Coast Guard appropriation.

Additional Agents

Out of the total of 1,600 new positions funded by the OCDE appropriation for fiscal 1983.

How many will be FBI agents?

How many will be DEA agents?

A total of 760 positions have been provided for the Department of Justice to support the investigative aspect of the OCDE task forces in 1983. Of these, approximately 140 positions are for support personnel, with approximately 620 positions being allocated for agent personnel.

Thus far, 600 agent positions have been allocated with 330 agent positions going to the FBI, and 270 assigned to DEA. The remaining 20 positions are expected to be allocated as 8 Special Agents and 12 U.S. Marshals.

South Florida Task Force

Last December 6th, the Department advised the Chairman of the Select Committee on Narcotics, Abuse and Control, that the South Florida Task Force on Crime would "continue in operation on a permanent basis."

What is the total number of personnel and annual cost of the South Florida Task Force?

As the Department indicated in the combined Administration response on the above referenced date a number of agencies committed resources to the South Florida Task Force as follows:

Drug Enforcement Administration — 65 Special Agents, 8 clerical and other support personnel, and 5 pilots; 9 enforcement automobiles, 4 aircraft, and 40 to 50 leased vehicles; 10 radios and other communication devices; computer terminals, armament, special weapons, vests and other protective apparel, emergency equipment and laboratory services; housing, light and power, record office space, drug and non-drug evidence storage cabinets, and surveillance equipment.

Coast Guard -- 1 additional "cutter-year" has been dedicated to the South Florida effort (this level of effort requires the service of approximately 3.6 cutters) as well as 3 additional HH52A helicopters and over 300 active duty personnel assigned to South Florida on a temporary or permanent basis.

Defense Department -- Navy: E-2C/B aerial surveillance flights manned by Navy crews; 12 high frequency sets with short term dedication of military technicians to assist in installation, P-3 aerial surveillance flights; Army: 4 AH-1G Cobra helicopters and training for Customs air crews; two UH-1H Huey helicopters; Air Force: two radar scopes at the Cudjoe Kay aerostat facility.

Although not specifically dedicated to the Task Force, there is an expanded federal law enforcement presence in South Florida as follows:

Federal Bureau of Investigation -- an additional 43 Special Agents have been assigned to FBI offices in the South Florida area.

Immigration and Naturalization Service -- INS presence in South Florida was increased by 25 officers and one clerical employee during 1982. Although this increase was related to immigration enforcement, the enhanced INS resources in South Florida have assisted in narcotics enforcement as well.

Criminal Division -- prosecutors temporarily assigned to South Florida have ranged from 12 to 16 including 4 Fraud Section attorneys assigned to handle fraud cases to free prosecutors in the Miami U.S. Attorney's Office to do drug work, 6 attorneys to prosecute narcotics cases, 4 attorneys assigned to "Operation Greenback" (although "Greenback" predates the South Florida Task Force, its work is closely related to the Task Force mission) and 2 attorneys to process forfeitures.

Executive Office for U.S. Attorneys -- the U.S. Attorney's Office for the Southern District of Florida has been authorized to hire 10 Special Assistant U.S. Attorneys recruited from other components of the Department and 29 new Assistant U.S. Attorneys (12 of which represent new positions).

Internal Revenue Service -- 26 IRS Agents were assigned to "Operation Greenback" (which predates the Task Force); as of October 25, 1982, 79 of the IRS Agents permanently assigned to the South Florida area were doing drug-related work.

Tax Division -- 6 Tax Division attorneys were assigned, as a substantial part of their duties, to the investigation and prosecution of drug-related tax cases in South Florida during 1982.

Bureau of Prisons -- 30 additional correctional officer positions were established for Miami in connection with conversion of the Federal Correctional Institution from a medium-security, long-term prison facility to a Metropolitan Correctional Center, a high-security facility to accommodate prisoners held for short periods of time. The additional officers are necessary to provide the higher level of security necessary for prisoners who represent a severe escape risk. In addition, approximately $1.5 million will be spent on renovations to increase the physical security of the institution.

Costs reported by the various agencies (exclusive of salaries for employees transferred to South Florida) are as follows for 1982: DEA - $3 million (primarily for per diem, purchase of evidence and information, gasoline, rental vehicles, etc.); Marshals Service - $1.2 million; Bureau of Prisons - $1.8 million; U.S. Attorneys - $1.2 million; Coast Guard - $10.5 million (for the last six months of 1982); Customs - $7.3 million. Defense through October 1, 1982, Navy: $990,000 in costs for its E-2C/B aerial surveillance support and $32,000 for P-3 missions; and Army: $60,000 in logistics support costs related to equipment loans (not including costs of training civilian pilots). The Coast Guard notes that part of its commitment was made possible by deferred maintenance which is an elusive factor to cost out.

It does not appear that the costs of the South Florida Task Force are budgeted in the Organized Crime Drug Enforcement budget. How are they budgeted?

The costs of the South Florida Task Force are not included in the OCDE budget. In 1982, the Drug Enforcement Administration, Federal Bureau of Investigation, Marshals Service, Bureau of Prisons, Executive Office for U.S. Attorneys, and Customs Service obtained supplemental appropriations. Defense has indicated that all costs incurred to date have been funded through regular defense appropriations for which the Department is anticipating reimbursement from the involved civilian agencies. The Coast Guard has not obtained supplemental funding; costs have been absorbed through reprogramming of appropriations while short-term impact has been partially offset by changing resource employment policies (e.g., combining training with law enforcement missions, deferring maintenance in favor of operational "at sea" days, etc.).

In 1983, the Drug Enforcement Administration has been absorbing all costs of their participation in the South Florida Task Force.

Please supply details of the funding commitments for 1983 and 1984; (i.e., by agency and account the number of personnel assigned to the South Florida Task Force and the estimated cost for the two fiscal years?

As you know, the Administration recently announced the establishment of the National Narcotics Border Interdiction System (NNBIS). The South Florida Task Force is expected to be included within the NNBIS. At this point the funding requirements for the South Florida Task Force for 1983 and 1984 have not been determined.

The information you have requested will be provided when it becomes available.

Does the jurisdiction of the South Florida Task Force now extend to the entire State of Florida, and if so, will that require additional resources?

The jurisdiction of the South Florida Task Force remains within the parameters for which it was originally developed, to focus on the interdiction of narcotics entering the United States through South Florida. The Department is currently reviewing an extension of the OCDE Task Force Program to encompass the remainder of Florida, Puerto Rico and the Virgin Islands. At this time, additional resource estimates for such an endeavor are not available.

Aerial Spraying of Marijuana

On December 21, 1982, the Department of State gave notice that our Government was going back into the business of helping foreign governments spray marijuana with paraquat. Imported marijuana now accounts for 90 percent of the U.S. supply, and it has been estimated that marijuana supplies from foreign countries could be reduced by as much as 60 to 70 percent.

Since the announcement in December, what progress has been made to resume aerial spraying overseas?

Colombia is estimated to supply 80 percent of U.S. marijuana imports. When do you expect the Government of Colombia to agree to spraying of these marijuana crops?

In attempting to provide complete information on this matter, we contacted the Department of State for input. In response, the Department of State has indicated that these questions involve sensitive information due to current negotiations regarding this subject. Therefore, these questions should be addressed directly to the Department of State which has jurisdiction in this area.

Diversion of FBI Positions to Narcotics

Is it correct that about 500 FBI workyears were diverted to narcotics cases in 1982 from the programs where they originally budgeted?

In 1982, the FBI expended approximately 472 direct agent workyears on narcotics investigations in the Organized Crime investigative program. Narcotics investigations also utilized resources in other criminal investigative programs, such as General Government Crimes, Fugitive, Personal Crimes, and General Property Crimes.

In 1982, several programs over-utilized their budgeted personnel resources, as shown below:

	FY 1982 Agent Workyears		Differences
Program	Budgeted	Utilized	Utilized (Over Budget)
Organized Crime......	1,287	1,486	+199
Applicant Investigations Non-Reimbursable.......	283	302	+19
General Crimes....... (excluding General Government Crimes)	1,643	1,754	+111

Other field programs incurred shortfalls, as follows:

Program	FY 1982 Agent Workyears Budgeted	 Utilized	Differences Utilized (Under Budget)
White-Collar Crime...	1,796	1,609	-187
Terrorism............	138	100	-38
Other Field Programs.	1,723	1,490	-233

In response to a question submitted at the December OCDE hearing, it was indicated that a portion of this diversion occurred in the Foreign Counter-Intelligence program. We have always been told that FCI was the Bureau's top priority program. Was the diversion of FCI workyears to narcotics due to a lack of FCI workload?

In 1982, the diversion of FBI workyears from other programs, including a portion from the Foreign Counterintelligence Program, was necessitated by the urgent need to address the serious narcotics crime problem in the United States. The resources of other high priority programs were also used to address the organized crime/narcotics problem. These programs had large shares of existing FBI resources and were considered to be able to absorb a temporary reduction of workyears with the least adverse effect on their overall programs. This is not to say there has been a reduction in FCI workload. Agents are currently being hired and trained to replace those diverted to address the urgent narcotics problem.

While this subcommittee certainly does not want to impose itself in the operation of the FBI, would it not have been advisable for the Department to notify the Committee of such a major reallocation of the FBI resources pursuant to our usual reprogramming procedures?

The Attorney General assigned concurrent narcotics enforcement jurisdiction to the FBI in January of 1982. At that time the FBI had no expectation of the resource impact of that assignment. As rapidly as possible projections were being made and plans were laid for increased resources for the FBI's Organized Crime Program. The Attorney General then decided to request the necessary resources in an 1983 Budget Amendment for the Organized Crime Drug Enforcement Task Forces. This was forwarded to the Office of Management and Budget in September 1982. The Congress passed Public Law 97-377 on December 21, 1982, which initially funded the OCDE concept.

Due to the speed in which the Administration and the Congress acted to provide resources for the Organized Crime Drug Enforcement efforts, the FBI considered a reprogramming to be premature and not a good management response to a temporary situation.

FEDERAL BUREAU OF INVESTIGATION

STATEMENT OF WILLIAM H. WEBSTER, DIRECTOR

ACCOMPANIED BY:

WILLIAM LEE COLWELL, EXECUTIVE ASSISTANT DIRECTOR, ADMINISTRATION

L. CLYDE GROOVER, JR., ASSISTANT DIRECTOR, ADMINISTRATIVE SERVICES DIVISION

THOMAS A. HUGHES, INSPECTOR-DEPUTY, ASSISTANT DIRECTOR, FINANCIAL MANAGEMENT BRANCH, ADMINISTRATIVE SERVICES DIVISION

KEVIN D. ROONEY, ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION

CHARLES R. NEILL, CONTROLLER

JOHN R. SHAFFER, DIRECTOR, BUDGET STAFF

BUDGET REQUEST

Senator RUDMAN. Our next request is for the Federal Bureau of Investigation, which totals $1,055,690,000. Appearing on behalf of the Bureau is its Director, Judge William H. Webster.

Judge Webster, we are pleased to hear your statement.

Mr. WEBSTER. Thank you, Mr. Chairman.

I have a formal statement, and in the interest of time, I would like to summarize.

Senator RUDMAN. The entire statement will be included in the record without objection and we will be pleased to hear your summary.

OPENING STATEMENT

Mr. WEBSTER. The fiscal year 1984 budget request is for $1,055,690,000. This represents $170,552,000 for program increases and uncontrollable increases of $31,819,000.

ENHANCED AUTOMATION

The main amounts reflected in the increases are to improve our technological capabilities; 76 percent of the increased program funding is for improvements to our automation capabilities and to provide voice privacy.

I would like to briefly summarize the principal places where that will go. In our ADP capability, the fingerprint identification service is an important adjunct to all law enforcement: State, Federal and local. It is the principal repository for fingerprints throughout the United States. We get about 25,000 criminal and civil fingerprint cards every day. The processing has become highly labor-intensive for us.

We started research on an automated process 16 years ago. This has included review by the Jet Propulsion Laboratory which confirmed the technological operational and feasibility of the automated process.

In 1984 we have asked for $40 million which will allow the implementation of the final phase of this project. We have phase I, phase II and phase III. Phase I has to do with automation of "rap" sheets, phase II addresses automation of the indexing system, phase III has to do with integration of these two coupled with an automatic computerized fingerprint search capability, a very important step forward technically.

The 1984 appropriation request includes a 145 workyear reduction resulting from automation efforts to date. To give you an example, turnaround time was 27½ workdays. We now have reduced it in the last year to 10½ workdays. When phase III is finished, we anticipate we can provide a 1 workday turnaround time for State and local law enforcement, which is important to them.

With respect to other ADP systems, we are trying to automate the manual and administrative recordkeeping systems that we have in 59 field offices and to make more effective our more than 430 odd satellite offices throughout the country.

This is a long-range automation effort that began in 1979. The automation plan was developed and approved in July 1981 and has been extensively reviewed and approved by OMB. I am told OMB has indicated this is one of the finest long-range plans of its kind, a model to which other agencies are being referred. We have tested our automation theories in our Richmond field office, trying to see how cost effective they are. The funding for 1983 is allowing implementation of the Richmond prototype in the New York field office, our largest field office, and other offices in the northeast region. We are using a regional approach in the northeast; the facility is located in Fort Monmouth, N.J. The increased funding of $38.4 million for 1984 will allow completion of the northeast region and expansion to the west coast. Within 5 years all field offices will be integrated into this system along with FBI headquarters. It covers a range of things; for instance the ability to record, on line, the utilization of investigative time by type of work being performed. This automation gives us the management tools for determing transfers, projecting our needs and keeping track of our record systems, as well as entering data into our investigative information systems from various parts of the field. The entire field has access to that information.

VOICE PRIVACY

Voice privacy is a very important item in our budget. It will provide private radio communications to the FBI automobiles and offices. I can't tell you how much trouble we have had in this particular area. I go to the field and talk to the agents and this is the single most important thing they ask for; even more than improved allowances to cover transfer costs. This is something I believe we must have. You can buy a scanner for $300 and monitor our radio transmissions. All of the news stations, radio stations, and newspapers, have these things, organized crime has them, foreign intelligence agents have them. We have to do something about it.

We started some very careful research in 1979 through 1981 and in 1983 we are getting voice privacy equipment for our Los Angeles office in order to get ready for the 1984 Summer Olympics. This is a heavy responsibility for the Bureau.

I was talking to the head of the Olympic committee this morning and I have another meeting with him after this meeting. It is important that we be able to maintain a level of privacy so other people can't follow our movements, be present, and put us at risk, whether it be a kidnaping, foreign counterintelligence surveillance, or an organized crime or terrorist surveillance. I participated in a simulated takeover by terrorists once to realize how bad it would be if our communications are tracked by the group. It doesn't take a lot of imagination.

We had a fugitive in Denver about a month ago who was shot in a shootout. We found plugged into his ear a portable scanner for monitoring two of the Denver police channels. For 1984, our request for increased funding of $45.1 million represents the third year of a 4-year voice privacy procurement plan.

HOSTAGE RESCUE TEAM

Additional increases are requested for FBI, which are classified as to number and amount, and for the hostage rescue team. The hostage rescue team has been developed after a lot of thought to the problem of responding to a large-scale terrorist threat. Ever since I came here 5 years ago, we have been dealing with this problem in closed meetings with the National Security Council, intelligence coordinating committees, and various intelligence groups. The question is what do you do when you reach the limit of the FBI SWAT team capability or the combined capability of the SWAT teams of New York, Washington, and the State and local police? For a long time they thought maybe we ought to go to the joint special operations command team. I thought that would probably be the way to go.

The position is such that no one wants to use regular Armed Forces even in a case of this type. We train with the joint special operations command. I have gone to see their work, others in our organization have worked with officials there and we came to the conclusion, slowly, that theirs is a different kind of a mission. They would handle a situation outside of the United States involving U.S. citizens. Theirs is the "take-out" solution of a crisis situation; it does not address rescue of the hostages themselves the way we believe the American people expect would be done in this country. The hostage rescue team is designed as a rescue team. Forty-one agents will be trained and based here in Washington, where the greatest risk of a terrorist situation exists due to all the diplomatic establishments. There is close access to our Training Academy at Quantico, Va., and they will spend about half their time in training, the other half performing regular FBI functions. We don't want them to become an elite corps. We don't want them to be outside the FBI or subject to different rules. We want them to stay close. It is not a super SWAT Team; it is a hostage rescue team.

RESOURCES FROM ORGANIZED CRIME DRUG ENFORCEMENT

In addition to that, I didn't hear all of Mr. Giuliani's testimony, but we are getting additional resources from the organized crime drug enforcement appropriation which will be reimbursable through the Department of Justice. It will provide additional agents for the FBI's responsibilities in drug enforcement.

Those generally are the increases, Mr. Chairman, focusing heavily on bringing the level of automation and equipment capability up to the quality of our agents. We don't want to see our equipment go so far in the dark ages that we are not adequately supporting the talent that is in the FBI.

[The statement follows:]

PREPARED STATEMENT OF WILLIAM H. WEBSTER
DIRECTOR
FEDERAL BUREAU OF INVESTIGATION

MR. CHAIRMAN, THE FISCAL YEAR 1984 APPROPRIATION REQUEST, WHICH I PRESENT TO YOU AND YOUR SUBCOMMITTEE TODAY, REPRESENTS THE ADMINISTRATION'S DESIRE TO SUBSTANTIALLY IMPROVE THE TECHNOLOGIES WITH WHICH THE FBI PERFORMS ITS MISSION.

WHILE OUR TOTAL APPROPRIATION REQUEST FOR 1984 PUTS US OVER THE BILLION DOLLAR MARK FOR THE FIRST TIME IN OUR HISTORY, I CAN ASSURE YOU THAT THE MONEY IS NECESSARY TO MAINTAIN A SKILLED AND TALENTED WORK FORCE AND TO PROVIDE OUR PERSONNEL WITH STATE-OF-THE-ART EQUIPMENT TO CARRY OUT THEIR RESPONSIBILITIES.

MR. CHAIRMAN, OUR REQUEST FOR 1984 IS FOR 19,940 PERMANENT POSITIONS AND ONE BILLION, FIFTY-FIVE MILLION, SIX HUNDRED NINETY THOUSAND DOLLARS ($1,055,690,000). THIS REQUEST INCLUDES $170,552,000 FOR PROGRAM INCREASES AND $31,819,000 NET UNCONTROLLABLE ITEMS. OF THE INCREASED PROGRAM FUNDING, $128,760,000, OR 76 PERCENT, IS SPECIFICALLY FOR IMPROVEMENTS TO OUR AUTOMATIC DATA PROCESSING (ADP) CAPABILITIES AND TO PROVIDE VOICE PRIVACY FOR OUR RADIO COMMUNICATIONS SYSTEM. WITH REGARD TO ADP IMPROVEMENTS, THIS YEAR'S APPROPRIATION REQUEST WILL PROVIDE FUNDING TO MOVE FORWARD WITH THE AUTOMATION OF OUR FINGERPRINT IDENTIFICATION SERVICES. THE FBI RECEIVES AN AVERAGE OF OVER 25,000 CRIMINAL AND CIVIL FINGERPRINT CARDS TO BE PROCESSED EACH WORKDAY. THE PROCESSING OF FINGERPRINTS HAS BEEN TRADITIONALLY A HIGHLY LABOR-INTENSIVE OPERATION REQUIRING SUBSTANTIAL PERSONNEL RESOURCES.

SIXTEEN YEARS AGO, THE FBI INITIATED RESEARCH TO AUTOMATE THE FINGERPRINT IDENTIFICATION PROCESS. THE SUCCESS

OF THAT RESEARCH EFFORT LED TO A PROJECT TO DEVELOP A FULLY AUTOMATED SYSTEM KNOWN AS THE "AUTOMATED IDENTIFICATION DIVISION SYSTEM" OR "AIDS." IN THE FIRST TWO PHASES OF THE AIDS PROJECT, WE DEVELOPED THE BUILDING BLOCKS OF THE SYSTEM. THE JET PROPULSION LABORATORY THEN BEGAN AN EXTENSIVE STUDY THAT CONFIRMED THE TECHNICAL, ECONOMIC, AND OPERATIONAL FEASIBILITY OF THE THIRD AND FINAL PHASE OF THE PROJECT. OUR REQUEST TODAY INCLUDES $40 MILLION TO IMPLEMENT PHASE III OF THE AIDS PROJECT.

YOU WILL RECALL THAT IN FISCAL YEAR 1982 WE SUSPENDED CERTAIN IDENTIFICATION SERVICES TO THE NON-CRIMINAL JUSTICE SECTOR BECAUSE OF WORK BACKLOGS AND THE LENGTHENING PROCESSING TIME. WITH THE APPROVAL OF THIS SUBCOMMITTEE AND THE CONGRESS, WE WERE ABLE TO RESUME THE SUSPENDED SERVICES AT THE BEGINNING OF FISCAL 1983 UNDER A REIMBURSABLE PROGRAM. THIS PROGRAM FINANCES THE ADDITIONAL PERSONNEL REQUIRED TO PROCESS THE FINGERPRINT RECORDS AS WE RECEIVE THEM.

AUTOMATION WILL ULTIMATELY REDUCE THIS RELIANCE ON PERSONNEL RESOURCES AND WILL CUT THE AVERAGE WORK PROCESSING TIME FROM A HIGH OF 27 WORKDAYS IN SEPTEMBER 1981, TO UNDER ONE WORKDAY WHEN PHASE III OF THE SYSTEM IS OPERATIONAL. WE ARE ALREADY BEGINNING TO SEE THE FRUITS OF OUR FINGERPRINT IDENTIFICATION AUTOMATION EFFORTS WITH THE CURRENT WORK PROCESSING TIME AVERAGING 10 1/2 WORKDAYS AND THE REDUCTION OF 145 WORKYEARS IN THIS YEAR'S APPROPRIATION REQUEST.

BEGINNING IN CALENDAR YEAR 1979, THE FBI EMBARKED UPON ANOTHER LONG-RANGE AUTOMATION EFFORT, THIS ONE TO REPLACE THE LARGELY MANUAL ADMINISTRATIVE AND RECORD-KEEPING SYSTEMS IN OUR 59 FIELD OFFICES AND AT FBI HEADQUARTERS. THIS WAS A SUBSTANTIAL UNDERTAKING BECAUSE WHAT AUTOMATION THE FBI HAD PREVIOUSLY ACCOMPLISHED WAS DONE SO ON A NEED BY NEED BASIS RESULTING IN FRAGMENTATION AND INEFFICIENCY. A LONG-RANGE INTEGRATED AUTOMATION PLAN WAS DEVELOPED AND FINALLY APPROVED BY ME IN JULY 1981. THIS PLAN HAS BEEN

EXHAUSTIVELY REVIEWED AND APPROVED BY THE OFFICE OF MANAGEMENT AND BUDGET. WE HAVE ALSO TESTED OUR AUTOMATION THEORIES IN A PILOT PROJECT IN OUR RICHMOND FIELD OFFICE. WITH FUNDING PROVIDED FROM THE ORGANIZED CRIME DRUG ENFORCEMENT APPROPRIATION IN FISCAL YEAR 1983 WE ARE PROCEEDING WITH THE IMPLEMENTATION OF THE RICHMOND PROTOTYPE IN THE NEW YORK FIELD OFFICE AND OTHER OFFICES IN THE NORTHEAST REGION OF THE UNITED STATES. THIS AUTOMATION EFFORT IS KNOWN BY THE ACRONYM FOIMS, WHICH STANDS FOR FIELD OFFICE INFORMATION MANAGEMENT SYSTEM. ADDITIONAL FUNDING OF $38.4 MILLION REQUESTED IN FISCAL YEAR 1984 WILL ALLOW US TO PROCEED TOWARD COMPLETION OF THE NORTHEASTERN FIELD OFFICES AND THE INITIATION OF FOIMS IN OUR WEST COAST OFFICES. WITHIN FIVE YEARS, ALL OF OUR FIELD OFFICES WILL BE UNDER THE FOIMS UMBRELLA AND THE SYSTEM WILL BE INTEGRATED WITH FBI HEADQUARTERS. FOR THE FIRST TIME IN THE HISTORY OF THE FBI, AN AGENT ANYWHERE IN THE UNITED STATES WILL BE ABLE TO ELECTRONICALLY QUERY OUR INDICES THROUGHOUT THE UNITED STATES AND DETERMINE ALMOST INSTANTANEOUSLY IF AN INDIVIDUAL HAS BEEN A SUBJECT OF PRIOR INVESTIGATION.

MR. CHAIRMAN, OF CONCERN TO US ALL IS THE SAFETY OF FBI PERSONNEL AND THE CONFIDENTIALITY OF OUR INVESTIGATIONS. THE ELECTRONICS REVOLUTION HAS INTENSIFIED THIS CONCERN. FOR $300, ANYONE CAN WALK INTO A STORE AND PURCHASE A SCANNER CAPABLE OF MONITORING ALL BUT A SMALL PERCENTAGE OF OUR TACTICAL INVESTIGATIVE RADIO COMMUNICATIONS. TO PROVIDE ADEQUATE PROTECTION FOR OUR AGENTS AND OUR INVESTIGATIVE OPERATIONS, IN FISCAL YEARS 1979 THROUGH 1981, WE CONDUCTED AN EXTENSIVE RESEARCH AND DEVELOPMENT PROJECT TO DETERMINE THE BEST OPERATIONAL AND MOST COST-EFFECTIVE VOICE PRIVACY SYSTEM FOR THE FBI. IN FISCAL 1982, WE AWARDED A CONTRACT TO PROVIDE A DIGITAL ENCRYPTED VOICE PRIVACY SYSTEM FOR OUR LOS ANGELES FIELD OFFICE AND EACH ONE OF OUR OFF-SITE SURVEILLANCE SQUADS. FISCAL YEAR 1983 FUNDING IS PROVIDING

$30.4 MILLION TO EQUIP ADDITIONAL FIELD OFFICES. THE 1984 INCREASED REQUEST FOR $45.1 MILLION REPRESENTS THE THIRD YEAR OF FUNDING FOR OUR FOUR-YEAR VOICE PRIVACY PROCUREMENT PLAN. THIS IS FOR THE ACTUAL EQUIPMENT TO BE PLACED IN OUR CARS AND OFFICES.

THE AREAS I HAVE JUST OUTLINED REPRESENT THE MAJOR PROGRAM INCREASES REQUESTED BY THE FBI FOR FISCAL YEAR 1984. OTHER INCREASES ARE FOR ADDITIONAL POSITIONS FOR OUR FIELD INVESTIGATIVE PROGRAMS, INCLUDING A RECENTLY FORMED HOSTAGE RESCUE TEAM--A GROUP OF HIGHLY TRAINED, SPECIALLY EQUIPPED AGENTS BASED IN WASHINGTON, D.C. THIS TEAM HAS THE MISSION OF RESPONDING TO INCIDENTS OF TERRORISM, PARTICULARLY HOSTAGE-TYPE SITUATIONS AND WILL GIVE THE PRESIDENT A LAW ENFORCEMENT OPTION IN DEALING WITH TERRORISTS.

WHILE NOT A PART OF OUR DIRECT APPROPRIATION, OUR FIELD INVESTIGATIVE RESOURCES ARE BEING AUGMENTED ON A REIMBURSABLE BASIS THROUGH THE ORGANIZED CRIME DRUG ENFORCEMENT FUNDING. THESE RESOURCES WILL BE MANAGED UNDER OUR ORGANIZED CRIME PROGRAM AND WILL SUBSTANTIALLY BEEF-UP OUR NARCOTICS ENFORCEMENT EFFORT. BY WORKING IN PARTNERSHIP WITH OUR SISTER AGENCY, THE DRUG ENFORCEMENT ADMINISTRATION, AS WELL AS WITH OTHER KEY FEDERAL, STATE AND LOCAL LAW ENFORCEMENT AGENCIES, WE WILL MAKE PROGRESS IN THE WAR AGAINST DRUGS, WHICH IS CLEARLY THE BIGGEST SINGLE LAW ENFORCEMENT PROBLEM TODAY.

IN SUMMARY, THE APPROPRIATION REQUEST FOR 1984 WILL PROVIDE INCREASED FUNDING TO ENABLE THE FBI TO APPLY STATE-OF-THE-ART TECHNOLOGY TO LAW ENFORCEMENT AND COUNTERINTELLIGENCE OPERATIONS. THESE TECHNOLOGICAL IMPROVEMENTS WILL TAKE SEVERAL YEARS TO IMPLEMENT AND THUS WILL BE VISIBLE IN OUR APPROPRIATION REQUESTS FOR THE NEXT SEVERAL YEARS. I AM CONVINCED THAT THIS IS THE COURSE WE MUST FOLLOW IF WE ARE TO ACCOMPLISH THE TASK BEFORE US.

MR. CHAIRMAN, I HAVE PREPARED A MORE DETAILED STATEMENT WITH EXHIBITS FOR THE RECORD. I WILL BE HAPPY TO ANSWER ANY QUESTIONS THAT YOU OR MEMBERS OF THE SUBCOMMITTEE MAY HAVE.

TOTAL FBI BUDGET REQUEST

Senator **Rudman**. Thank you, Judge Webster.

For the record, could you provide the FBI's totals when you include the additional resources from OCDE, the total budget, total number of permanent positions, the total for FBI automation, and the total for voice privacy—so we know as to what the total resources will be with the enhancement you will receive from the assignment of those resources from the other funds that will be appropriated.

Mr. **Webster**. I will be happy to do that now or do it for the record.

Senator **Rudman**. Do it now.

Mr. **Webster**. On budget authority for 1984, $1,091,250,000. This includes $35,560,000 from the special appropriation.

In terms of positions, we are asking for 20,351 positions which include 8,758 agents and 11,593 support positions, of these the special appropriation will account for 334 agents and 77 support positions.

In our automation program, our total budget is $138,970,000 which includes $5 million from the special narcotics task force appropriation for the Department of Justice.

In voice privacy we are asking for $63,419,000 all of which is in the FBI budget.

Senator **Rudman**. Fine. That is very good. We did want that for the record.

WAR ON DRUGS EFFECT ON OTHER FBI RESPONSIBILITIES

Let me ask questions about the FBI's ability to carry out its mission with all of the additional responsibilities which you now have, particularly in the area of narcotics.

How is this going to work in terms of your other responsibilities? The President has put a very heavy emphasis, as well as he should, on the drug problem, but you have a lot of other problems as well. How is it going to all work out in terms of your resources?

Mr. **Webster**. I think it is going to mesh very nicely. We have given a lot of thought to what the FBI's role in it is and our reporting responsibilities which we now have in connection with combined strategy with DEA. DEA reports through me to the Attorney General.

The FBI's role is going to be in key areas, where we are already present: organized crime, financial crime, the laundering of money, the nontraditional organized crime groups, motorcycle gang, the outlaw groups, and corruption of public officials, which we find to be a major problem in big money narcotics today.

Those fit within our existing programs so we would expand those. We will fund the FBI's commitment on drugs through the organized crime budget allowance that Congress gives us plus the additional resources, 330 odd additional agents coming through reimbursement from the special appropriation from the Department of Justice.

In gearing up for this, we have had to draw on some other programs. As you know, during the year that we have operated under the Attorney General's directive concerning joint FBI/DEA jurisdiction in narcotics matters, we had no additional resources. We plowed about 500 workyears into the drug effort. Most of that was from the organized crime program which fits nicely, but we had to draw from other places including white-collar crime and to a limited extent from our foreign counterintelligence efforts.

As we receive these additional resources, we will backfill some of the programs that were depleted beyond the line items that Congress had awarded but we will have a minimum commitment of some 630 positions.

It is our expectation this will not have an ongoing adverse impact on our foreign counterintelligence program. It may result from time to time, as we get more heavily into narcotics work that we will have to pull from, say, lower priority items, the white-collar crime program, but our main thrust will come through the organized crime program allowance, which is substantial.

Senator **Rudman**. I take it from your answer that the priorities will be set, as far as drugs are concerned, in a way that is essentially not different from the way you set priorities now.

Mr. **Webster**. Yes, sir.

TERRORISM

Senator **Rudman**. Judge Webster, I have a question regarding what is getting to be a concern of all of us and that is the rising opposition to our Nation's policies of nuclear weapons deployment. Have there been any indications that the opposition to these Government policies could well go from what has been up to now a peaceful protest to something more than that—you see that overseas.

How will you characterize the Bureau's capabilities nationwide that deal with the terrorist activities that may stem from this movement?

Mr. **Webster**. I think we have increased significantly our capacity to identify in their earlier stages the development of a terrorist capability or potential within our country.

In terms of this particular concern that you have expressed, we have approached our responsibility within clearly defined guidelines. Under our foreign counterintelligence guidelines, we have pursued efforts of foreign agents to influence the course of debate and the course of public opinion without investigating domestic organizations, but by investigating the foreign agents who are trying to influence those organizations.

In terms of civil unrest, we have followed closely those types of activities which give the potential for violence, without being unnecessarily intrusive into the day-to-day activities. There has been very little to date that would suggest that the peace movement or the antinuclear movement is headed toward the kind of violence we experienced in the late 1960's and 1970's. The closest thing I can recall last year was the delivery of the Trident submarine to Bangor, Wash., where there was some thought that people would place bombs or create some minor disturbance. It did not happen. We are watchful and our guidelines do permit us to investigate whenever the nature of the activity points toward violence in violation of Federal law. I think that we, both in terms of the budgetary allowances and in terms of the revised Federal guidelines on domestic security cases, must be in a position to do this and at the same time give full respect to constitutional safeguards.

Senator **Rudman**. I asked the question, Judge Webster, because it seems like there has been almost an east-to-west flow in this whole movement and talking to people who have recently been in Germany and knowing the stated position of the movement in Germany by its leaders, it makes you wonder whether or not there could be things that could occur here within our own borders that would transcend what is legitimate civil disobedience. My question is directed to the Bureau's ability to (a) provide intelligence within the Constitutional framework and (b) do something about it once something is perceived.

Mr. **Webster**. I think it is there. And, in addition to that, I could mention that the hostage rescue team that I described before puts us in a better position to deal with one that happens that could not have been avoided. Our work with nuclear emergency research teams and explosive demolition units puts us in a position to both head off and interdict any activities that might involve a nuclear threat. Incidentally, we get several dozen nuclear threats every year. Fortunately none of these prove to be anything. In the 5 years that I have been Director, there has been only one actual theft of nuclear material and that was low-grade uranium, and the matter was resolved very quickly. But we do train with the other agencies because it could be a devastating situation if we ever had an actual nuclear weapon, possibly in a major city being used for extortion purposes.

Senator **Rudman**. I think that is the ultimate fear and the ultimate terrorist activity.

Mr. **Webster**. Every one of those will be taken seriously.

REORGANIZATION

Senator **Rudman**. My final question before I yield to Senator DeConcini.

Could you give us your assessment of the success of the reorganization plan that has DEA reporting through the FBI to the Attorney General, and also, will some of your technical and communications systems of the two organizations be merged? If so, what?

Mr. **Webster**. I think in terms of personnel and investigative effort, the transition period in the last year has, in my opinion, been an unqualified success measured against the things that most people were deeply concerned about—I know Senator DeConcini expressed some concern about what would it do to morale, what would it do to momentum, what would it do to direct investigations.

Without overstating it, I don't believe, there has been any loss in downtime and there has been no loss in momentum. Quite to the contrary, the FBI started with less than 100 drug-related cases for investigation and has gone to over 1,000 important drug cases within the type I described to you earlier; over 300 of those are being operated jointly with the Drug Enforcement Administration.

I held a conference 2 weeks ago of all the field commanders of DEA and the FBI. We are almost indistinguishable. Mutual respect is growing. We do have technical problems which we are going to solve along the way in managing communications. We use VHF while DEA uses UHF. Those things will have to be solved in the most economical and efficient way possible by finding ways to interlink with communications. Liaison is excellent. I think it is clear that all the vital organs of the DEA have remained. We have eliminated their inefficient regional structure, that had existed for a long time, to give direct reporting from the field to headquarters of DEA, but that did not take away from the watertight integrity of the situation as such.

Whether we merge down the road remains to be seen. There is no need for an immediate decision on that. Our options are still open. We have a good working relationship with each other and I see more improvements down the road. We are working on how to improve the EPIC center. We are participating in coordinating groups in terms of the drug task forces. Now we will be providing support as appropriate to the new groups on the interdiction effort that is being operated under the aegis of the Vice President.

In terms of splitting up the resources that were made available through the special appropriation, it is a slow process but I think it has been resolved now and numbers have been established and training will take place. We will have probably around 182 of those agents still in training at the end of the year but we plan for the additional trainees to train both at Quantico and Glynco, Ga. Over 300 FBI agents have taken drug training at Glynco. We have been bringing in some of their people on a smaller scale to acquaint them with the title 18 general crime series so that in doing investigations they can throw us important work outside the drug field.

SHARED INTELLIGENCE

Senator **RUDMAN**. I assume there is a fair amount of shared intelligence at this time?

Mr. **WEBSTER**. Yes, there is. And the intelligence we have is in the organized crime information system, which now carries a drug data base to which DEA will have appropriate access under the guidelines. We have a series of interagency procedures for working together which were developed jointly and were established a year ago last March. They work very well and we are in the process of reviewing that. I called for a 6-month review of the procedures. It was brought together by DEA and FBI. It seems to be working well. We are a year into it.

I would like to say we have a big problem out there in terms of drugs and it isn't just law enforcment, it is interdiction, cutting the source of supply in Europe and in South America. The Attorney General is currently on a trip to address the supply source countries in South America, and we are hopeful that will be coming along.

Senator **RUDMAN**. Thank you.

Senator DeConcini.

DEA ACCESS TO FBI INTELLIGENCE

Senator **DECONCINI**. Thank you, Mr. Chairman.

Judge Webster, to follow up on your integration of your organization, does the DEA agent have total access to the organized crime intelligence of the FBI?

Mr. **Webster**. He does not have total access.

Senator **DeConcini**. Who decides whether or not he gets the information if he wants to task the organized crime?

Mr. **Webster**. At the present time this is being worked out at headquarters level within FBI headquarters and DEA.

Senator **DeConcini**. Is there a fear at the FBI or concern that quality or the misuse or potential leak or something has prevented that from occurring?

Mr. **Webster**. As I said, we have gone a long way in a year and what we are trying to do is proceed cautiously. Intelligence is a little like a toothpaste tube, when you give access, you can't change your mind and go backward.

What we are trying to do is address, as you know from your own prosecuting experience, the importance of a perception of watertight integrity over the intelligence data bases. When you give assurance of confidentiality to informants, it is very important that you are able to protect that information.

Senator **DeConcini**. I understand that.

Mr. **Webster**. We have the capability within the organized crime information system to devise different types of access codes which will permit, even within the FBI, different types of access at different levels and on a need-to-know basis. We will be working to come up with an acceptable solution.

DISSEMINATION OF ORGANIZED CRIME INFORMATION

Senator **DeConcini**. What concerns me, Mr. Giuliani in his statement said that the tie between organized crime drug trafficking has just been recognized fully in the last few years. I talked to you and I know that you have been aware of that link for a long time and I question whether or not people in the Justice Department haven't been aware of the position of the FBI.

What does concern me—the organization appears to me to be going well and you are optimistic—because I think it is very important, that the availability of organized crime intelligence information to drug-related and even non drug-related investigations by DEA has a stopover in a different family and organized group, that that be available. I don't want to lead you to any misinformation or ideas I have, complaints or things that are not working well, but it occurs to me with the massive amount of intelligence you have and if DEA is going to be a partner in this, which I think is quite clear they are, that the intelligence of organized crime needs to be disseminated among those who are involved in drugs.

Mr. **Webster**. There isn't any question about that, Senator. We have the NADDIS system which has been developed by DEA and we have our own organized crime information system, plus our special ISIS program through which drug information is developed, and the pathfinder on-line intelligence base, plus the EPIC center. These have been integrated.

Right now we are approaching it through people.

Senator DECONCINI. Do you have a plan of integrating all that or is it just kind of working its way?

Mr. WEBSTER. It is in the course of development. We have a full-time FBI agent at EPIC at the present time assessing the situation there. We have sent our technical services division people down to assess security at the EPIC center and to see how we can improve the quality of security that is down there.

There is very little analytical work going on at EPIC center, it is mostly done at FBI headquarters and DEA headquarters. Most of that information is being shared. I think it is too early for me to say we have all systems go on this. This is one we have to be careful about. The access is there like the process of switching signals.

Senator DECONCINI. You are saying you are working on an integrated policy or plan?

Mr. WEBSTER. Right.

Senator DECONCINI. That will make all necessary organized crime intelligence available to DEA?

Mr. WEBSTER. We want DEA to have every bit of information it needs to have.

Senator DECONCINI. That is what troubles me. When you look at it from the standpoint of the FBI, an organized crime agent that is assigned there, you make an inquiry as to certain family in New York, Chicago, or Tuczon, Ariz., and there is no information there, right there, as to drug involvement but the DEA agent may have an informant or something and this concerns me, and as long as you are in the process of integrating that, that is the only concern I have.

Mr. WEBSTER. In some of the regional areas, we have developed close working relationships, the DEA liaison with the FBI office and the FBI liaison with DEA. It provides us an opportunity to request, develop and furnish information to the DEA and vice versa.

INFORMATION AVAILABLE TO TASK FORCES

Senator DECONCINI. What about the OCDE task forces, what is the criteria or integration of availability of intelligence? Is that determined solely by the FBI?

Mr. WEBSTER. The task forces themselves are still getting off the ground. We have a small number of agents and prosecutors now functioning in every core city. They will be expanded.

In terms of intelligence for purposes of investigative work, we have to work out an accord—this is not a pool. There are certain types of investigations which involve interagency relationships—sometimes it may be two agencies, sometimes it may be three. Intelligence will be shared substantially as it has been shared in the past between agencies working on particular investigations. I might refer you to the Tylenol investigation. It is an example of how information developed independently can be shared and still be protected.

Senator DECONCINI. I think that is a good example of sharing of intelligence. It seems to this Senator that when you get into the area of organized crime, there seems to be some curtain that drops in law enforcement—and that is based on some experience but also talking to Customs agents and sometimes DEA agents—not DEA agents recently, I must say—as to the availability of that. It seems if OCDE task forces are going to be functional, they are going to have access to your organized crime intelligence even if it is not drug related so the prosecutors there can make some determination.

Mr. **Webster**. Prosecutors will be given all the investigative information developed, intelligence or otherwise. We have over 300 ongoing investigations with DEA and their intelligence is being shared on an agent-to-agent basis.

Senator **DeConcini**. What about Customs, with the interdiction efforts, suggest is it going to play a major role—maybe it may be too early. I talked to Mr. Murphy yesterday and he said you have a lot of things to do and I hope that is one, to discuss with the Bureau and yourselves as to some sharing of that intelligence for their purposes.

Mr. **Webster**. At the last meeting that Mr. Murphy called, the initial meeting after the President's announcement of the program, we identified intelligence as one of the areas in which the FBI, which does not really deal with interdiction functions, can support the effort. I am meeting with them this afternoon at 4 o'clock.

FOREIGN COUNTERINTELLIGENCE PROGRAM

Senator **DeConcini**. Thank you. One last question.

According to the priority rankings on page 66 of the justifications, other field programs—the budget category that includes the foreign counterintelligence program—is ranked No. 1, as it was in the fiscal 1983 justifications. Congress has endorsed that priority. Congress provided additional FCI resources, mainly in response to information from FBI sources that the increasing number of hostile intelligence agents was outstripping the FBI's ability to keep up with them.

In view of the top priority established for FCI, and the professed lack of FCI resources, why did the FBI reprogram 12 percent of the agent workyears budgeted for FCI into narcotics cases in fiscal 1982?

Mr. **Webster**. This was a judgment based on need to commit resources under the direction of the Attorney General without any additional resources having been given to us at that time. We anticipated that those figures would be restored and, in fact, they have been restored in terms of the backfilling that is now taking place, with the understanding and approval of the Department of Justice.

We believe it was necessary, although cases that we are looking at are very high quality cases. We drew from the white-collar crime program and from the foreign counterintelligence program at their very lowest level of priority. They are all important but we took the least important things we were doing, work that could be deferred.

Senator **DeConcini**. Has that been restored as of today, in your judgment?

Mr. **Webster**. If it has not already been restored, it will be in the next several months. We are bringing them back up. We have taken some other steps to assure that budgeted staffing is not drawn from FCI work. If field commanders take assigned agents off of FCI work for more than 72 hours, they have to come to headquarters for approval. We are taking other steps to be sure that the programs are adequately maintained. As you know, we don't put patches on agents. They do all kinds of work, so we measure the commitment to those programs in terms of workyears spent as shown by the computerized tracking system that we have. And when you have a major terrorist incident or something of that kind, we draw from the house.

We do take special steps to maintain the level of foreign counterintelligence activity. The work is good and the resources are now coming in to backfill those drawn off temporarily.

The short answer is, we are replacing those at the present time and if they are not already replaced, they will be.

Senator **DeConcini**. Thank you, Judge Webster.

UNDERCOVER ACTIVITY

Senator **Rudman**. Thank you, Senator DeConcini.

Judge Webster, before we let you go, I will be remiss since both Senator DeConcini and I serve on the Senate Select Committee that studies the undercover activity of the Bureau, and we have heard a great deal of testimony from you and from the people at the Bureau, have you continued your effort in tightening the control over the informants that you necessarily must use in a pursuit? I ask that question with the background that we all share.

Mr. **Webster**. Yes, I have, Mr. Chairman. And I have been reviewing the lengthy and carefully considered reports of the committee to make sure that we have addressed all of the suggestions that have been made. Some of that is interpreting the proposed legislation at the present time. We cannot promise you there won't be mistakes made in the future; that is the nature of law enforcement. It concerns us a great deal. In fact, on some very sensitive investigations currently underway, I directed that they be reassessed particularly in the area of predication in light of the Senate report. I have gotten reports back justifying or examining or correcting, as required, the standards under which those investigations were taking place.

Senator **Rudman**. I am glad to hear that because my own view was, and I had a part in writing that report, that really the only valid criticism of the Bureau, constructive but certainly valid, was that with the immediacy of the events that sometimes develop in that type of investigation, the amount of control exercised over the informants was something less than we all would like to see, including yourself by your own testimony. And I think it is important you do look at that because it is valid to use undercover informants and agents, but if the informants exceed their authority, they can get the Bureau in a lot of trouble. With their own undercover people they won't seek that authority because they are trained not to, but the informants——

Mr. **Webster**. Cooperative witnesses.

Senator **Rudman** [continuing]. In your behalf don't have the same restraint.

WILLIAMS' APPEAL

Senator **DeConcini**. Mr. Webster, am I correct that the Williams' appeal was turned down yesterday?

Mr. **Webster**. The conviction was affirmed the day before yesterday.

Senator **DeConcini**. What happened?

Mr. **Webster**. From our point of view, we were hopeful and the opinion itself dealt with some of the questions concerning the due process issue. It now represents the sixth time that due process issues going up to the court of appeals have been upheld.

SUBMITTED QUESTION

Senator **Rudman**. Thank you very much. The committee has an additional question which we will submit to you for response in the record.

[The following question was not asked at the hearing, but was submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR LAXALT

Federal Bureau of Investigation

Question. Please provide the total multi-year costs of the ADP system, the voice privacy system and the fingerprint identification system.

Answer. The principal ADP system identified in the congressional request is the Field Office Information Management System (FOIMS). The total multi-year cost for this system is estimated to be $324 million up to its completion in 1989. Of this amount, $21.9 million is included in the 1984 enhanced request. Estimated yearly costs to maintain the FOIMS beyond 1989 are $30 million.

The voice privacy system will be completed in 1985 at a total cost of $132.4 million. A 1984 enhanced request of $45.1 million will be for the voice privacy system. Once all field offices are equipped, a base of $6 million will be needed for maintenance.

The Automated Identification Division System-III (AIDS-III) has a multi-year cost of $40 million, all of which is included in the 1984 enhanced request to Congress. Estimated costs to maintain the system after its completion are $7.2 million. These costs will be shared by the ADP and Telecommunications and the fingerprint identification programs.

DRUG ENFORCEMENT ADMINISTRATION

STATEMENT OF JOHN C. LAWN, ACTING DEPUTY ADMINISTRATOR

ACCOMPANIED BY:

GENE HAISLIP, DEPUTY ASSISTANT ADMINISTRATOR, DIVERSION CONTROL

MARK J. MARKMAN, ACTING ASSISTANT ADMINISTRATOR, OPERATIONAL SUPPORT DIVISION

EDGAR L. BARNETT, DEPUTY ASSISTANT ADMINISTRATOR, ADMINISTRATION

JAMES K. WILLIAMS, CHIEF, BUDGET SECTION

KEVIN D. ROONEY, ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION

CHARLES R. NEILL, CONTROLLER

JOHN R. SHAFFER, DIRECTOR, BUDGET STAFF

OPENING STATEMENT

Senator RUDMAN. The next request is for the Drug Enforcement Administration. The fiscal year 1984 estimates for the DEA total $275,623,000 and 3,988 permanent positions. Appearing on behalf of the agency is the Acting Deputy Administrator, Mr. John C. Lawn.

Welcome, Mr. Lawn, we are pleased to hear your statement. If you will summarize your statement, your entire statement will be included in the record.

1984 BUDGET REQUEST

Mr. LAWN. Thank you very much, Mr. Chairman.

I appreciate this opportunity to appear before this Subcommittee to discuss the Drug Enforcement Administration's 1984 budget. It is a continuation of the President's 1983 program to add resources which will have an impact on drug trafficking and to apply them in a balanced fashion across the criminal justice system.

The Drug Enforcement Administration is requesting for 1984 a total of $275,623,000 and 3,988 permanent positions. This request represents an increase of $20,127,000 in funding and 35 positions from the anticipated 1983 appropriation of $255,496,000 and 3,953 permanent positions. This appropriation finances a domestic program in each of the 50 States, foreign operations in 42 countries as well as, eight forensic laboratories across the country, and the Federal/State and local task force program that operates in 19 major metropolitan areas. Program increases will strengthen and modernize the foreign operations, the vehicles, and our ADP and laboratory services program.

NO. 1 CRIME

The No. 1 crime confronting America is drug trafficking, which is inextricably tied to organized crime, both in the traditional and nontraditional sense. Outlaw motorcycle gangs, Colombian "cocaine cowboys," La Cosa Nostra (LCN) syndicates, and the other organized crime groups are more often than not violent profiteers, exploiting a broad range of our population.

Our goal is to stabilize and then minimize the drug problem by insuring that the traffickers are apprehended and convicted, that their drugs are removed from the marketplace, and that they lose their profits and proceeds.

STRIDES IN DRUG ENFORCEMENT

In the past year, we have made great strides in the drug enforcement program. For the first time we have seen the military provide assistance to the drug campaign. Last year, the Attorney General restructured DEA and gave the FBI concurrent jurisdiction to enforce the drug laws. This alliance has been very effective. For example, the number of court-authorized drug-related wiretaps has tripled with FBI involvement and support. The number of FBI narcotics cases has increased from under 1 dozen to well over 1,300—which is in addition to DEA's 7,500 ongoing investigations. The number of DEA fugitives apprehended has increased significantly. FBI is apprehending somewhere between 30 and 40 fugitives on behalf of DEA each quarter of the fiscal year. In general, DEA/FBI coordination of training programs, scientific laboratory programs and criminal information sharing has progressed well.

We are now embarking on another major endeavor. Last October, President Reagan announced an "8 Point Initiative" to combat drug trafficking by organized crime which is authorized in the Further Continuing Resolution for 1983. One initiative is the 12 organized crime drug enforcement task forces which cover the entire country. Under the Attorney General's direction, the Federal enforcement agencies are working cooperatively, drawing upon the expertise of each of the participants to conduct investigations at the highest levels of the drug traffic in order to reach the principal players and to destroy the market structure that has developed. I would like to emphasize, however, that this task force program will be supplementing—not supplanting—the ongoing efforts of DEA and the FBI.

STATE AND LOCAL EFFORT

Another significant component of DEA's enforcement program is our State and local effort. The State and local task forces, which are geared toward the violent midlevel and street-level violator, is an important avenue of support for state and local enforcement. The El Paso Intelligence Center continues to provide intelligence support for their operations. Forty-six States are now on line on the EPIC program. As part of the President's initiatives, we are continuing and enhancing the state and local training program. DEA's domestic marihuana eradication program has been extremely effective—together we eradicated over 1,600 metric tons in 1982.

Twenty-five States participated in 1982 and 40 will participate in 1983.

In conclusion, Mr. Chairman, I believe that the programs now in place have great potential to build upon our recent accomplishments. We will be able to minimize the drug problem of violent crime. I appreciate the support of this committee and the Congress. I will be pleased, at this time, to answer any questions which you may have.

[The statement follows:]

PREPARED STATEMENT OF JOHN C. LAWN

ACTING DEPUTY ADMINISTRATOR

DRUG ENFORCEMENT ADMINISTRATION

Mr. Chairman and Members of the Subcommittee:

I am pleased to have the opportunity to appear before this Subcommittee to discuss the Drug Enforcement Administration (DEA) Appropriation/Authorization request for 1984.

The 1984 request is a continuation of the President's 1983 programmatic thrust to bring additional resources to bear on drug trafficking and is in line with the Attorney General's determination to apply resources in a balanced way across the criminal justice system.

Based on the Attorney General's study of violent crime, a Law Enforcement Coordinating Committee (LECC) was established in each judicial district. The LECCs' identified drug trafficking as the priority problem.

In January 1982, the Department first addressed this need for an increase in our emphasis on drug enforcement and the organized criminal enterprises involved in drug trafficking, by assigning to the FBI concurrent jurisdiction with DEA for investigating violations of the U.S. drug laws.

Further, partially as a result of the success of the President's South Florida Task Force, it was decided to launch a vigorous nationwide attack on the drug trafficking problem.

An "8-Point" plan was announced by the President on October 14.

Subsequently, the Administration's budget amendment, to support the Organized Crime Drug Enforcement program (OCDE) was authorized in the Further Continuing Resolution for 1983 (P.L. 97-377).

Twelve task forces have been established in key areas in the United States. These task forces, under the direction of the Attorney General, will utilize where necessary the law enforcement resources of the DEA, FBI, IRS, ATF, Immigration and Naturalization Service, the U.S. Marshals Service, the Custom Service and the Coast Guard. In addition, in some regions, Department of Defense tracking and pursuit capability will be made available.

These task forces will amount an intensive and coordinated campaign against international and domestic drug trafficking.

1984 Appropriation Request

The Drug Enforcement Administration is requesting for 1984 a total of $275,623,000, and 3,988 permanent positions. This request represents an increase of $20,127,000 in funding and 35 positions from the anticipated 1983 appropriation of $255,496,000, and 3,953 permanent positions. This appropriation finances a nationwide operation with field offices in 50 states, foreign operations in more than 40 countries, 8 field forensic laboratories, and Federal/State and local task forces in selected areas.

Program increases amounting to $11,515,000 within DEA's regular 1984 budget will provide for strengthening and modernizing the Foreign Operations, Vehicle, ADP, Radio and Laboratory Services programs.

Further, 250 positions and enhanced ADP capabilities are to be funded within $24,076,000 to be allocated from the OCDE appropriation.

Management of Federal Drug Enforcement

In the Spring of 1982, the Congress was advised of organizational changes to provide greater flexibility in the management of drug enforcement resources within the Department of Justice.

The new DEA/FBI alliance has exceeded our expectations to date. Since the summer of 1981, FBI narcotics investigations have grown from 100 to over 1,000. Investigations involve organized crime, financial crimes, and public corruption. Joint DEA/FBI investigations have increased from a handful to over 300, an example of agency cooperation. The FBI has also dedicated its resources to drug-related Title III investigations, which as you all know, are extremely manpower intensive. In the first six months of 1981, which basically predates direct FBI involvement in drug investigations, DEA conducted 19 Title III electronic surveillances. During the same time frame, one year later, with both DEA and the FBI utilizing this approach, there were 55 drug-related Title III investigations initiated, a 244 percent increase!

As a part of our efforts, we have begun cross-training DEA and FBI Agents for better interagency understanding and to make each agency's expertise available to the other.

FBI Special Agent accountants--useful in dealing with the financial end of the drug trade--the FBI's network of informants and experience with long-term undercover operations and organized crime investigations are all important tools brought into this partnership.

DEA and the FBI are also coordinating utilization of the scientific laboratories to make them available to both agencies.

Intelligence analysts from both DEA and the FBI have been working closely together to ensure that all intelligence data bases are effectively searched to provide specific targetting information to the agents in the field.

Drug Traffic and Organized Crime

Crime has become increasingly organized and sophisticated. Organized crime has become especially lucrative because of the enormous market for illicit drugs. Drugs and organized crime have combined to wreak havoc on our communities, our lives, and our children's future. Directly or indirectly, it threatens each person and institution in this country. It threatens the fabric of society.

On the human level, the drug problem caused by organized crime is staggering. Drugs victimize not only addicts, but also those innocent citizens whom addicts assault, rob, and burglarize to obtain the large sums of money they need to feed their drug habit. One study demonstrated that over an eleven year period average of 2,000 crimes each or a crime every other day--just to support their habits. In fact, half of all jail and prison inmates regularly used drugs before committing their offenses. According to a Rand study, addicted offenders in California committed nearly nine times as many property crimes each year as non-addicted offenders.

The drug trafficking that creates this flood of crime is itself organized crime. Large-scale drug dealers must organize their operations. They obtain the illicit substances, or the rights to the substances, overseas. Within our borders, the drug dealers have set up elaborate enterprises for cutting the imported drugs and distributing them over wide geographical areas.

And the organization does not stop there. Drug money is laundered through legitimate businesses set up as "fronts" for drug dealers. A share of the profits is then reinvested in the drug business, just like a legitimate major enterprise. Increasingly, some of the profits are actually invested in legitimate businesses, including real estate in Florida, restaurants in California, and other businesses across the Nation.

The popular notion that the syndicate--or traditional organized crime--stays out of drugs is simply not true. Many of the syndicate's families have developed elaborate drug networks. Virtually every one of them is involved in drugs in one way or another.

But the problem of organized crime today is by no means limited to its traditional form. In the past two decades, we have witnessed the emergence of new organized criminal enterprises dealing in drugs and the other rackets traditionally controlled by the syndicate. These emerging groups have entered the drug business, often in competition with traditional organized crime.

Over the past decade, some 800 outlaw motorcycle gangs have developed around the country and in foreign countries--and drugs represent their primary source of revenue. Prison gangs, first established as a result of associations developed in the California State Prison system over the past twenty years, today operate both inside and outside prison and are spreading beyond the West Coast. In addition, there are other emerging groups--such as Southeast Asian groups, the violent Colombian groups known as the Cocaine Cowboys, and other drug cartels.

All of these criminal organizations deal in drugs and use violence. They are secretive, self-perpetuating criminal societies involved in drugs and every other sort of criminal activity. Money is their common objective, and violence is their primary tactic. They control large-scale drug trafficking today, and they are the groups that must be immobolized if we are to control the drug problem.

The massive involvement of organized crime with drugs is, however, only part of the problem. Organized groups of criminals assault and murder each other--and innocent bystanders--in the violent and lucrative world of drugs.

And most serious of all, we see public officials at all levels being corrupted by drug money. We have reports of rural sheriffs and police officers accepting payments of $50,000 or more just to "look the other way" while traffickers make a single landing at a makeshift airport. The dollar amounts involved are so great that bribery threatens the very foundations of law and law enforcement.

D United States Government Strategy

The number one crime problem confronting America is narcotics trafficking combined with organized crime. The strategy of the U.S. Government must be to deter trafficking of drugs through increased and consistent punishment, and to assure the certain loss of accumulated profits and proceeds of this criminal enterprise. The Federal Government has made a firm commitment to attack this problem domestically through the major new initiative to establish 12 Regional Task Forces. The President has said: "Our commitment to this program is unshakable--we intend to do what is necessary to end the drug menace and cripple organized crime".

Drug control is an international issue. All of the heroin and cocaine and most of the cannabis available in the United States is cultivated and processed from sources in Southwest Asia, Southeast Asia, South America, the Caribbean and Mexico.

It is important to stop drugs at or as close as possible to their source rather than as they approach or cross United States borders, because quantities seized at the source are much larger and purer and have not entered the expansive distribution chain which ultimately leads to the streets of United States cities.

Consequently, DEA personnel are stationed in foreign countries to support host countries' efforts to eliminate cultivation, production and conversion of drugs and to stop shipments of drugs destined for the United States. These efforts include the provision of technical assistance through training and the exchange of intelligence in cooperative investigations. Stopping drugs within the source country or as close to the source as possible has proven to be an effective approach to reducing the supply of illegal drugs.

Finally, we must also approach the demand issues and make the use of drugs less appealing through better education of the public about the health consequences of drug abuse.

Assessment of the Drug Trafficking Situation

Based on the latest available full year data, we can state that, during 1981, that heroin abuse and availability increased in the New York-Washington, D.C. corridor and on the West Coast.

Cocaine abuse continued to expand. Marijuana use peaked among youth in 1979, but may still be rising among older age groups. Abuse of stimulants continued to increase, while a new abuser population that has evolved out of the search for heroin substitutes emerged. Preliminary indications drawn from 1982 data suggest these tendencies continued well into 1982. Although 1982 survey data indicated that the number of current users of illicit drugs dropped significantly between 1979 and 1982, drug related deaths and injuries appear to have increased primarily because of chronic use, increasing dose, the use of combinations of drugs and more dangerous routes of administration (especially for cocaine and herion).

Heroin

Heroin abuse worsened in 1981. Comparing 1981 with 1977 in terms of heroin-related emergencies, the situation deteriorated in New York City, Washington, D.C., Boston, and Philadelphia.

Imports of heroin into the United States remained unchanged from 1980 to 1981 at four metric tons. Southwest Asian (SWA) heroin accounted for over half of the U.S. heroin supply. The share of Southeast Asian (SEA) heroin in total U.S. imports remained stable at an estimated 10 percent despite increased opium production in the Golden Triangle (Burma-Thailand-Laos) following relief from drought. Mexico continues as the major heroin source for the West and Southwest.

Drug smuggling routes and techniques in 1981 were largely unchanged from those employed in 1980. SWA heroin continued moving overland through Europe. SEA heroin continued to enter the United States primarily on a direct route from Thailand to the western states. Importation of Mexican heroin is increasing and continued to enter the United States primarily overland.

For the foreseeable future SWA heroin will be readily available in the United States. Mexican heroin is likely to remain dominant in the West and may increase in availability in some distribution centers in the central states. SEA heroin, rarely an aggressive contender, will probably continue to occupy only a minor share of the national market if SWA and Mexican heroin remain generally available.

Cocaine

Cocaine abuse and trafficking activity continued to rise in 1981, although for the most part at lower rates than in 1980. Cocaine-related emergency room episodes increased seven percent and arrests five percent, while treatment admissions apparently continued a rapid climb.

According to NIDA estimates, fifteen percent of the user population fall into the category of heavy use involving higher levels of purity and lower prices per unit associated with the larger quantities used. Cocaine remains the drug most frequently used by heroin addicts as a secondary drug.

In 1981 (the lastes official estimate), approximately estimated 34 metric tons of cocaine were consumed in the United States and 75 percent of the cocaine smuggled into the United States came from Colombia.

The drug smuggling routes and techniques in 1981 were largely unchanged from those employed in 1980. Utilizing commercial aviation, smugglers continue to move cocaine from Colombia, through the Caribbean area to the Southeastern U.S.

Because of increasing availability, cocaine abuse is likely to continue to increase. This increase in availability is also expected to lead to the increased use of dangerous forms of cocaine ingestion ("speedballing" and "freebasing"), forms with potentially severe health consequences. Cocaine is expected to remain a popular secondary drug for heroin users.

Cannabis

Marihuana use has peaked among youth, and demand for marihuana in that age group is apparently decreasing, in part because of greater awareness of its health hazards and peer disapproval. Daily use of marihuana among high school seniors was down to the 1975 level of 6 percent or about one in every 16 seniors according to a recent survey funded by the NIDA. The best news said NIDA, was that between 1981 and 1982, high school seniors showed a declining use of nearly all drugs. Marihuana use appears to be continuing among that segment of the population who were heavy users in the early 1970s.

The level of domestic commercial production of marihuana was estimated at 1,000-1,200 metric tons in 1981. High-potency varieties, such as sinsemilla, account for an estimated 40 percent of total output. However in 1982, 1,653 metric tons were seized and destroyed which would indicate that either the 1981 estimate was low, there was a sizable increase in cultivation in 1982 or a combination of both.

Imports of marihuana dropped nine percent in 1981 to an estimated 8,700-12,700 metric tons. Colombia supplied 86 percent of this total.

The principal avenue of approach for marihuana smuggling was a route from Colombia through the Caribbean to the Southeastern United States.

For at least several years marihuana use should continue to decline among youth but may remain fairly high among those in the 20-30 year age bracket. Although it is difficult to measure the demand for high-potency marihuana, preference for this type of marihuana is likely to persist and possibly increase among long-time and regular users.

Domestic production of marihuana will continue to spread throughout the country unless it is met with a credible and sustained law enforcement deterrent.

Dangerous Drugs

Stimulant abuse, which continued to increase in 1981, accounted for over four-fifths of the total dosage units of dangerous drugs sold. Because a large dosage of this stimulant is needed to obtain the desired effect, the cost of sustaining this abuse habit is higher than for other types of dangerous drugs.

Abuse indicators reflected the emergence of a new narcotics abuser population using pharmaceutical opiates and narcotics analogs. Initially used as heroin substitutes, these substances are drugs of choice preferred to heroin or used in combination with heroin. The drugs most commonly associated with this abuse pattern are pentazocine (street name: "T's and Blues"), codeine-glutehimide (street name: "Fours and Doors") and hydromorphone (Dilaudid).

Clandestine laboratories supply all of the phencyclidine (PCP), nearly all of the methamphetamines and about 80 percent of the amphetamines found in the U.S. illicit market.

Diplomatic initiatives with the governments of foreign methaqualone producers were instrumental in sharply reducing supplies to illicit channels before 1982.

Continued international cooperation should restrict the supply of bulk methaqualone to the illicit market. This reduced supply will probably result in the continued marketing of diazepam counterfeits as methaqualone. Abuse of the pentazocine and codeine-glutehimide combinations is likely to intensify. Although Dilaudid has also become popular as a drug of choice, it is so much more expensive than pentazocine that its use may not become a major abuse pattern. Mexican "mini-bennies" may return to the illicit U.S. market if amphetamine abuse continues to grow and domestic clandestine laboratories are immobilized.

Effect of Enforcement Efforts

Our enforcement efforts are having a positive effect now. With the increased resources being allocated to this fight we should be able to stabilize drug trafficking and reduce its impact on the lives of our citizens and communities.

Our government's commitment to eradicating the drug abuse problem has been conveyed to authorities at the highest levels in source and transit countries. We have seen many positive results from our overseas efforts.

Heroin couriers have been intercepted in Bangkok as they were about to board flights for Guangzhou (Canton), Peoples Republic of China where a number of narcotics arrests have been made by Chinese authorities. Evidence indicates that the heroin contraband was destined for Hong Kong.

The Mexican government has continued its aggressive poppy eradication program. However, it must be noted that counter/measures by the opium cultivators, including concealment, smaller plots and the spread of cultivation of new regions, have resulted in a rise in opium production from an estimated 10 tons in 1979 to 14-15 tons in 1980 and 1981. On the other hand marihuana eradication efforts have achieved considerable success.

The Bolivian government stated its intention to implement coca eradication, although no eradication was actually carried out.

Peru's program to eliminate illicit coca cultivation in the Upper Huallaga Valley within five years entered into the initial implementation phase. The Colombian National Police and Attorney General's office carried out periodic manual eradication of coca bushes in the Llanos region.

On January 18, 1983, the successful undercover penetration of a major cocaine conversion and distribution organization resulted in the delivery and seizure of 50 kilograms of cocaine HCL to agents in Brazilia. Brazilian Federal police have so far seized properties and vehicles valued at a half-million dollars.

Cooperative activities among domestic Federal agencies have resulted in successes such as:

1. The seizure on March 9, 1982 of approximately 3,748 pounds of cocaine in an air cargo shipment at Miami International Airport.

The seizure was the direct result of information developed by the DEA in the follow-up investigation of a joint DEA-U.S. Customs seizure of 90 pounds of cocaine on February 19, 1982, at Miami Airport from another air cargo shipment.

2. On June 24, 1982, the Drug Enforcement Administration,

assisted by U.S. Customs Service, Suffolk County Police, Nassau County Police, and the New York State Police, arrested four defendants in Long Island, N. Y. and seized approximately 614 pounds of cocaine which had been transported from Colombia.

Task forces and operations like GROUPER and TIBURON in the southeastern United States, have demonstrated the utility of coordinated enforcement activity and intelligence sharing.

EPIC

Nine Federal agencies participate at the EL Paso Intelligence Center (EPIC). Forty-six states or state affiliations are now members of the El Paso Intelligence Center. EPIC continues to provide real-time operational feedback on queries. It has been invaluable to the South Florida Task Force effort, working as a check and relay for the interdiction of suspect aircraft vessels. EPIC supports all our major drug operations and also acts as a clearing house for intelligence regarding aliens and guns.

Posse Comitatus

Along with involvement of the FBI, another major development in the drug enforcement effort has been the involvement of the military in drug intelligence operations. We are only beginning to see the results of this new resource.

In conjunction with the South Florida Task Force and related operations, the Navy E2C's (Hawkeye Aircraft) provide detection capability and Army's Cobra helicopters have been utilized as chase aircraft. The Navy has been regularly and increasingly relaying suspect vessel information to EPIC for evaluation and action. The Navy has provided direct assistance to the U.S. Coast Guard and participated in the boarding and taking custody of a suspect vessel. Coast Guard crews are also onboard some Navy vessels.

We are now working on refining policy and procedures to ensure that the military is fully aware of drug law enforcement's needs and how they can be of assistance nationwide. The Coast Guard is chairing an interagency committee of the DOD, Customs Service, and DEA to funnel requests for military assistance to the drug enforcement effort. We foresee continued equipment and manpower support for vessel and air operations in the Caribbean, for vessel tracking, for surface fleet training, and for marihuana eradication programs in the U.S. in 1983.

Asset Seizures

Enforcement of the laws to ensure that the profits from drug trafficking are reduced has led to action such as:

In Miami, the Government seized, for ultimate forfeiture, $1 million in cash and bank accounts. Further investigations in this case led to Switzerland where by means of the Swiss Mutual Assistance Treaty in Criminal Matters, the Swiss Government seized, and is in the process of forfeiting, in excess of $3 million in drug money held in Swiss bank accounts.

In a New York investigation, the Government seized, and is in the process of forfeiting, $1.2 million from drug trafficking's bank account.

In Fort Worth, where the government became co-owner of a steel mill, three banks, six ranches, a chain of Western-wear shops all valued at $2 million and an additional $20 million in Exxon stock; and In Los Angeles, where the government took over a $1-million home in the hills of Santa Barbara.

In 1982, total seizures reported under the various applicable laws were again up over the preceding year.

DEA is assisting States to develop laws based on DEA's Model Forfeiture of Drug Profits Act. Eleven States have now passed such legislation and are now putting the proceeds from seized and forfeited property to work for the benefit of law enforcement activities and the community.

Domestic Marihuana Eradication

The domestic marihuana eradication campaign is now an ongoing DEA/State effort. DEA began its model eradication program in 1979 in Hawaii and California and now there are 26 individual state programs in various phases of implementation.

The use of paraquat in the Florida eradication program is a milestone in the domestic marihuana eradication strategy. I hope that where it is appropriate, feasible, and cost effective, other states follow Florida's lead. The use of this herbicide is a clear signal--and one that is needed--to the governments of drug source countries, that the United States is seriously committed to drug eradication.

In 1982, 3,625 separate plots were raided and more than 2 million marihuana plants destroyed.

This program will be expanded during the 1983 growing season and major strides should be made in the next few years.

State and Local Assistance

The investigation of drug trafficking is a joint responsibility of Federal, State and local authorities.

DEA's State and local task force program, wherein we apply about 100 agents and the State and local agencies about 300 officers ensures that there is sufficient activity geared to the violent street-level and mid-level drug trafficking.

DEA can assist the States in other ways, also, to bring positive results in the overall drug abuse problem. We have been providing counsel and prepared model legislation which addresses the drug paraphernalia problem. Approximately 35 states, the District of Columbia and hundreds of municipalities have responded and passed legislation. Recent Supreme Court decisions affirmed the constitutionality of municipal drug paraphernalia statutes which are less restrictive than DEA's Model Drug Paraphernalia Act .

The problem of "look-alike" drugs, over the counter preparations designed to look alike prescription drugs, is very much analogous to the paraphernalia problem. Even though DEA has no authority under the Controlled Substances Act to proceed against these manufacturers and distributors, we have been assisting the states by drafting model legislation to assist in the development of an appropriate response.

Conclusion

No crime problem is more important than drug trafficking and drug abuse; no problem is more challenging to law enforcement at every level--Federal, State and local.

This Administration has made clear its commitment to drug control and minimizing the crime associated with drug trafficking.
I am confident that the implementation of the initiatives I have discussed today will have significant impact on the problem. I want to acknowledge the continuing support of this Subcommittee and thank each of you for your interest. I will be pleased to answer any questions you may have.

TASK FORCE VS. NORMAL OPERATIONS

Senator **Rudman**. Thank you, Mr. Lawn.

Will you distinguish how you will operate in an area where you have additional task force operation, how will that be handled?

Mr. **Lawn**. In regard to the organized crime drug enforcement task forces, in each of our core cities we have designated a core city task force coordinator. He will be the coordinator who will actually work with the task force case and at the same time work with DEA and FBI agents and the agents of any other agencies involved through the current management structure to insure that there is no replication or duplication of effort.

Senator **Rudman**. That certainly has to be something watched very closely.

Mr. **Lawn**. Yes, sir.

Senator **Rudman**. It would be very hard to distinguish between task force cases and the regular cases in the regional office.

Mr. **Lawn**. As far as the task force cases are concerned, DEA and the FBI have introduced cases through the coordinating committees which ought to be considered by the coordinating committee task force cases. These cases have been reviewed at DEA headquarters, FBI headquarters and at the Department of Justice.

When the final approval for these cases was made, the case designator will be changed from a DEA investigation to a DEA task force investigation, and the same is true of the FBI. The accounting systems will be different but the coordination will be very close.

FBI/DEA COORDINATION

Senator **Rudman**. Could you explain to the committee how the FBI cases that are handled by the FBI are coordinated with DEA, if there is coordination. You mentioned there are 1,300 FBI drug cases at the present time, in addition to their 7,500 active cases. Is there coordination between FBI and DEA?

Mr. **Lawn**. Of the 1,300 cases, there are some 300 cases worked jointly. Of those cases that are not worked jointly, each narcotics case which is opened by the FBI is sent first to FBI headquarters for approval. DEA has a full time supervisor working at FBI headquarters in the narcotics units who has access to all of the communications coming in from each of the FBI offices and the FBI has the same access to DEA material. The FBI full-time supervisor acts in a similar capacity in DEA headquarters.

Senator **Rudman**. Here in Washington?

Mr. **Lawn**. Yes, sir. In the field we have a close liaison between the FBI and DEA as well as liaison agents designated in each of our offices who work on a daily basis with DEA or FBI counterparts.

Senator **Rudman**. So it would be possible for the FBI office in Boston to be following a drug case that was known to the agent involved in the DEA office in Boston?

Mr. **Lawn**. Yes, sir, that is correct.

STATE AND LOCAL ASSISTANCE

Senator **Rudman**. Can you tell us the type of assistance which DEA presently is giving to local and State law enforcement?

Mr. **Lawn**. Yes. In regard to our working with state law enforcement, we work very closely with law enforcement in training at our training center. We finance the domestic eradication program for State and local officers, and we provide airwing support in the domestic eradication program. In 1982 we had six marihuana identification seminars for State and local officers. I believe we trained 120 officers from 46 States. The 1982 allocation was $773,000. This year we are increasing that to, I think, $1.9 million.

Senator **Rudman**. Are you continuing your operations, joint operations, with certain local and State police authorities that have drug units and that do have active investigations going, continuing what I have known to be in the past active joint efforts with both your people and local and State authorities?

Mr. **Lawn**. Yes, sir. We have 19 current ongoing task forces working with State and local authorities.

DRUGS OF CHOICE

Senator **Rudman**. I take it heroin is still the No. 1 priority of the agencies?

Mr. **Lawn**. Heroin is a continuing problem with the agency and with the country, but the No. 1 drug of choice is cocaine.

Senator **Rudman**. How do you prioritize in terms of resources of drugs right now? Cocaine first?

Mr. **Lawn**. No, sir. Cocaine is the drug of choice, the drug that is causing considerable concern and considerable investigative effort on both DEA's and FBI's part. However, we have asked each of our offices in the country to determine what the scope of the narcotics problem is within their locale based upon their written evaluation and the evaluations we received from other agencies. We then determine and allocate personnel from DEA on the basis of the current problem as we perceive it. In that way we would not place demand, for example, upon our Miami office to expend considerable amount of manpower in the heroin area when heroin is not the main concern of south Florida, it would be cocaine and marihuana. In the case of New York and Detroit, heroin would be the problem. And then we would allocate our resources based upon the scope of the problem as it is perceived on site by our agents in those locations.

COOPERATIVE EFFORTS WITH THE STATE DEPARTMENT

Senator **Rudman**. Will you tell us about cooperative efforts between the State Department and your agency in terms of following cooperative investigations?

Mr. **Lawn**. Yes, sir. We have an agent assigned on a full-time basis to the Office of the International Narcotics Matters, INM, in the State Department. He reports there on a daily basis. INM furnishes funds to us for the training of foreign officers, and for eradication programs overseas; they sponsor our executive operations programs of representatives overseas. In addition to the INM, DEA is a part of the Joint Franco-American-Canada Conference. It was DEA's initiative with the conferees that brought the Italians into that particular conference. We are active members of Interpol. We have DEA agents assigned at Paris and in Washington, D.C., and we are regular attendees at Interpol conferences throughout the world.

SUBMITTED QUESTIONS

Senator **Rudman**. Mr. Lawn, we have about eight other questions, but I think they can be answered for the record. We have a number of other items to hear this morning on a rather limited schedule, so I think we will submit those to you to answer for the record in the next 5 days.

Thank you.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR LAXALT

Drug Enforcement Administration

Replacement Agents

Have replacement agents been recruited to backfill the positions transferred to the Task Forces?

We have scheduled basic agent classes through the end of this fiscal year to backfill the positions assigned to the Task Forces.

As agents graduate, they will be assigned to the divisional offices based on a percentage of the total OCDE allocation. Thus, we will be assigning our new agents to the larger city offices that assigned experienced agents to the Task Forces, so that they will gain a broad scope of experience.

Drug Problems

What areas of the world pose the biggest drug problem for the U.S. and how is DEA responding?

The following is a survey of drug producing areas of the world, organized by drug type with general statements of the pertinent problems and responses by DEA.

HEROIN

There are three source areas for illicit heroin: Southwest Asia (The Golden Cresent); Southeast Asia (The Golden Triangle) and Mexico. Southwest Asia has emerged as the primary source for heroin in the United States. Because of the political situation in Afghanistan, enforcement and eradication efforts in Pakistan's Northwest Frontier on the Afghan/Pakistani border have been curtailed. DEA recently opened an office in Peshawar, Pakistan which is near the Afghan border to monitor opium cultivation and develop intelligence that will support interdiction efforts by Pakistani Customs and the Pakistan Narcotics Control Board. DEA also has offices in Islamabad, Karachi, and Lahore. In 1982 DEA opened offices in Cyprus and Athens. DEA also plans to increase its presence in Rome to counter the westward movement of Southwest Asian heroin. This increase in presence will further DEA's efforts with its Italian counterparts against heroin trafficking by the Mafia to the United States. In this manner, DEA continually works with its counterparts in Europe to stop transshipment of heroin to the United States.

Southeast Asia continues to be another significant source of heroin for the U.S. market. Although we enjoy excellent cooperation from the Government of Thailand, areas in Burma that are controlled by the Burmese Communist Party and the Shan United Army are obstacles to the eradication of opium cultivation and the elimination of heroin refineries in the Golden Triangle.

The cooperative efforts by the Government of Mexico have reduced the Mexican share of the U.S. heroin market from 80 percent in the mid-1970's to about 30 percent. DEA maintains offices throughout Mexico to coordinate eradication and enforcement efforts with Mexico.

COCAINE

Virtually all the cocaine on the illicit world market comes from South America. Peru and Bolivia are the principal producers of coca leaf, from which the cocaine alkaloid is extracted in the form of cocaine paste or base. These products are further processed into cocaine hydrochloride in Peru and Bolivia, but principally in Colombia, which is responsible for up to 70 percent of the cocaine entering the United States.

Because of Colombia's dominance in the cocaine market, as well as its importance in the marihuana and dangerous drug markets, DEA maintains one of its strongest overseas complements there. Nineteen persons are posted throughout the country. Thirty-five more DEA employees are posted as indicated in eight other South American countries: Peru (7), Bolivia (5), Venezuela (2), Ecuador (7), Brazil (7), Chile (2), Argentina (2), and Panama (3). All work principally against the cocaine traffic.

DEA Agents in South America are dedicated to institution building of host country police forces (including training), the exchange of information with host governments, and cooperation with other U.S. government agencies in interdiction and crop control programs. Largely as a result of these programs, more than 12,000 pounds of cocaine were seized in 1982.

MARIHUANA

About 80 percent of the marihuana available in the U.S. market is derived from foreign sources. The remaining 20 percent is domestically grown. Principal source countries and their respective share of the U.S. market are: Columbia (51 percent), Jamaica (16 percent), Mexico (6 percent) and other (6 percent).

While Colombia continues to be the largest single supplier to the U.S. market (about 7,600 MT), its market share has subsided from a previous high at 75-80 percent. This reduction is the result of both Colombian and U.S./international seizures which, combined, are believed now to keep 30 percent to 40 percent of Colombia's crop from reaching the U.S. market. While Colombian marihuana seizures have been impressive (more than 3,000 tons in CY 1982), their failure to embrace an aerial-applied, herbicidal eradication program has been disappointing. Such an eradication effort is considered the only effective means to eliminate marihuana trafficking in Columbia.

Partly in response to interdiction efforts being focused on Colombia and partly due to economic stagnation, Jamaica has become more prominent in the last year as a principal source of supply. While that government has made some effort to control marihuana trafficking the financially strapped government has limited resources to apply to a politically unpopular program. Also, large elements of the government have argued that there is a need to legalize marihuana production and to control distribution so as to obtain taxable revenue and thus reduce Jamaica's severe balance of payment problem. Traditionally, Mexico had been a major supplier of marihuana until the adoption of a successful eradication campaign there in the late 1970's. During the last year, the marihuana trafficking community has attempted, with some success, to expand production by promoting a few, large-scale, high-tech cultivations in remote, non-traditional growing areas. To date, the Mexican government has been fairly effective in dealing with the problem, but a weak economy and heavy enforcement/interdiction action focused on Colombia will continue to favor expansion.

Two other countries of lessor stature, Belize and Brazil, could figure prominently in the future, pending the degree of success of current host country law enforcement actions and future economic conditions. Belize's production consists of perhaps only 250 acres, but if left unchecked could develop into another Jamaica. Fortunately the governments of Belize and Mexico, with encouragement from the U.S., have developed a strong bilateral working relationship in which Mexico provides experienced crews and helicopters to spray existing marihuana cultivations. The first such operation was completed in November 1982, with a second such program expected shortly. Brazil, which has a fairly large user popoulation of its own is making an effort to control further cultivation of marihuana before this illicit activity becomes endemic to the way of life in vast, remote regions of the Amazon basin. While overall production is unknown, it is believed to be fairly large, probably in excess of 2,000 acres. To date, most appears destined for local consumption. Further development of a more sophisticated distribution infrastructure in that country could bode ill for the U.S. should international contacts be established.

Organized marihuana growing has developed in recent years in northeastern Thailand. Some major Thai opiate traffickers have become involved in its transportation, attracted by high profits, low risks and lenient legal prescriptions. Austraila and New Zealand are the principal markets for Thai marihuana, with North America a developing one.

DANGEROUS DRUGS

The following is an overview of the major dangerous drug trafficking trends as they impact the United States. These can be summarized in order of importance, below:

a). Methaqualone

There is a trend noting a decrease of availability in bulk methaqualone available to both U.S. and Colombian traffickers, due to the constriction of European sources of supply, specifically involving Hungary, West Germany, Austria and possibly Czechoslovakia and China.

b). Diazepam

Because of the methaqualone shortage there has been a marked increase in the traffic and manufacture of methaqualone counterfeits, generally composed of the tranquilizer, diazepam, which is not currently subject to stringent international controls.

The primary manufacturing source of this diazepam is apparently Italy. The diazepam is subsequently brokered through Hamburg, where it is shipped to Colombia. From Colombia, the product is either broken down into smaller bulk powder lots to be smuggled to the U.S., or it is tableted in Colombia and the finished product is smuggled to South Florida. As a consequence, we may assume that diazepam trafficking patterns are indistinguishable from those relating to methaqualone.

Acting through the United Nations, DEA is currently attempting to place diazepam, and approximately twenty similar products, under the controls provided by the Psychotropic Convention.

c). Penyl-2-Propanone (P2P)

The international traffic in the methamphetamine precursor, Penyl-2-Propanone (P2P) has reached significant levels during the last year. The P2P originates in Western Europe, primarily West Germany, the United Kingdon, the Netherlands and France, where it is unwittingly brokered to dummy chemical companies. The P2P is wholesaled in 50 gallon drums, however traffickers break the lots down to one and five liter containers, or into ounce bottles.

It would appear that the Philadelphia-South Jersey area is a major focal point of the wholesale illicit traffic, with Nassau and Panama frequently utilized as offshore intermediate points where P2P lots are broken down. Further, at the wholesale level, there appears to be significant involvement of individuals with ties to the Philadelphia organized crime families. The involvement of motorcycle gangs is significant at both the manufacturing and distribution levels of the traffic in both the U.S. and Canada.

d). Amphetamines/Phendimetrazine

A few recent cases in Mexico suggest that several licensed manufacturers are ready to increase traffic in mini-bennies (amphetamine) and phenteramine (Ionemin) for U.S. distribution.

Bulk phenteramine, phendimetrazine and dextro-amphetamine sulfate are obtained from West Germany by licensed Mexican pharmaceutical firms. The purpose of the manufacture is primarily to meet the demands of the illicit traffic; Mexican restrictions on the import of controlled amphetamines are circumvented by providing Mexican Customs officials with spurious bills of lading.

Manfactured amphetamine ("mini-bennies") phenteramine (Ionemin) and phendimetrazine ("black mollies"), smuggled from Mexico, have been a problem for the past fifteen years. However, should there be curtailment in the supply of methamphetamine for clandestine U.S. labs, due to difficulties in obtaining necessary precursors, we can expect this traffic to increase.

e). Ergotomine Tartrate

Medically, ergotomine is utilized in the treatment of migraine headaches and certain obstetric dysfunctions.

The primary manufacturing source is the Netherlands. The U.S. illicit distribution appears controlled by a group of loosely associated west coast traffickers.

Research Projects

Please provide a list of projects to be funded out of your 1984 $1.2 million research budget.

Project Description	Cost
SATCOM II — Specialized communications systems-development of pre-production prototype and operational demonstration	$500,000
Optical Character Readers for Pen Register Tapes — Feasibility study and procurement of preproduction prototypes	200,000
Dial Digit Recorder — Design and develop new dial digit recorder to meet DEA enforcement and intelligence requirements	250,000
Technology development Support — Quick reaction and ad-hoc engineering support on specialized technical equipment	250,000
Total	1,200,000

Seizure Laws

What are your recommendations to Congress to make seizure laws effective, both to stop drug trafficking and to provide resources for the DEA?

Several variations of proposed legislation have been reviewed by DEA as well as the Department and the FBI. The most important considerations presented — in the area of drug related forfeitures under 21 U.S.C. 881 (Civil Forfeitures) — are the following:

> The removal of a dollar limit for the administrative processing of all seized conveyances (presently $10,000) and raising the dollar value cutoff to $100,000 for all other civil asset forfeitures. In either case, it is also recommended a claim and bond, necessary to transfer jurisdiction to the Federal court system, be raised from the current $250 to a value of $2,500 or ten percent of the appraised value of the item seized, whichever is greater. This entire procedure change would eliminate a significant number of frivolous judicial actions being pursued by way of claim and bond.

Past and present legislative initiatives have addressed the issue of the expanding cost attributable to seizure and forfeiture. The establishment of a drug forfeiture fund would, in effect, enable the seizing agency to deposit proceeds realized from forfeitures and/or sales of forfeited assets and, in turn, withdraw suitable funds from the special fund to support the growing critical need to adequately store and maintain assets pending litigation or ultimate disposition. Included in the authority for this type of activity would be the authority to sell the asset now forfeited. DEA currently does not have the ability to independently sell forfeited assets.

The Subcommittee should be aware that there is a significant difference between value of assets seized and the actual amount realized from assets forfeited (and the proceeds of the sales thereof); any discussion relative to budget and/or special forfeiture funds, or the like, should be predicated on a clear understanding of that distinction. Also, some recommendations regarding the special fund have suggested that only monies attributable to conveyances be considered for retention and distribution in the fund. Since this could result in a negative cash flow to the agency, thereby depleting rather than of augmenting the special fund, all assets subject to forfeiture under 21 U.S.C. 881 should be included in the fund's application.

New Agents

Are new agent hires required to meet the same eligibility requirements as FBI agents?

Presently there are differences in the requirements, the FBI's entry level is GS-10, and DEA's entry level is GS-7. Our excepted authority requires DEA to follow Office of Personnel Management X-118 standards.

DEA has proposed an increase in positions to reinforce agent strength in critical transshipment points for the cocaine and mariuhuana that enters the United States. Does DEA feel that its coverage is adequate in these areas?

Yes, presently coverage in these areas is considered adequate. In 1982 DEA opened offices in Santo Domingo, Dominican Republic and Curacao, Netherlands Antilles. A pilot position has been approved for our Panama City Office to assist in interdiction operations. In addition, DEA has offices in Nassau, Bahamas; Guatemala City, Guatemala; and Kingston, Jamaica.

In addition to permanent positions, DEA conducts Special Enforcement Operations. Operation "TRAMPA" is an interdiction operation conducted against smuggling by vessels in cooperation with U.S. Customs and U.S. Coast Guard. Vessels are intercepted coming out of Colombian waters.

Operation "BAT" is a Special Enforcement Operation conducted in the Bahamas, Grand Turk, and Caicos Islands against aircraft smuggling. Bahamanian police are ferried to locations where interdiction operations are conducted.

Marihuana Supply

What percent of the total marihuna supply is grown domestically?

It is estimated that in 1982 as much as 20 percent of the marihuana available on the U.S. market was produced domestically.

Vehicles

How many vehicles does DEA currently have on its property records and what is the ratio of cars to agents?

DEA currently has 2,124 vehicles in use.

Sedans and station wagons	1,793
Trucks	290
Other	41
Total	2,124

On August 14, 1981, DEA established the ratio of one vehicle to each domestic field Special Agent. Headquarters Special Agents are not as a general rule assigned an official government vehicle. In addition to the above assignment of vehicles, DEA maintains approximately 139 unassigned special purpose vehicles, e.g., heavy trucks, vans, taxi cabs, etc., at various field office locations. Compliance Investigators are assigned vehicles at a 1:2 ratio and about 100 vehicles are dedicated for this type of activity. DEA State and Local Task Force operations are assigned 172 vehicles for over 300 state and local police officers engaged full-time in Task Force drug investigations. DEA has 174 vehicles assigned to its foreign field offices. Vehicles are also assigned to various functions such as the field laboratories, EPIC, the Aviation Unit, and the Office of Training (Federal Law Enforcement Training Center, FLETC). DEA has over 200 cars in its fleet that meet replacement criteria.

Can equipment be borrowed interchangeably between the DEA and FBI at field locations?

Current operating policy of DEA and the FBI is to provide for the interchange and use of special technical investigative equipment, radios, special purpose vehicles and other special equipment on an as required basis and, in particular, in support of joint DEA/FBI investigations. During the past two years, there have been numerous investigations in which pen registers, radios, video equipment, special purpose vehicles, and technical investigative equipment have been shared throughout the course of the investigation.

El Paso Intelligence Center

Has the FBI become a full partner in the El Paso Intelligence Center (EPIC) now that the FBI is so heavily involved in drug law enforcement?

The FBI participates fully at the El Paso Intelligence Center.

Diplomatic Passports

Does DEA believe that sufficient diplomatic passports are issued to its personnel?

DEA, for years, has requested from the State Department, the issuance of diplomatic passports to all Special Agents and those support personnel whose counterparts in the U.S. Mission carry diplomatic passports. DEA believes that due to the nature of the work and extensive travel required by Special Agents throughout the world, a diplomatic passport would assist in the accomplishment of U.S./DEA objectives and is in the best interest of the U.S. Government.

QUESTIONS SUBMITTED BY SENATOR LEAHY

Funds for Purchase of Information and Evidence

The explanatory statement that the Committee submitted to the Senate last December in lieu of the usual report on the Further Continuing Resolution included my concern that insufficient funds are available to DEA offices in land-border states for purchase of information and evidence. The Committee directed that DEA allocate a minimum of $10,000 to each land-border state for such purposes. Have those funds been allocated as directed by the Committee? If not, please explain why they have not been allocated?

Please supply to the Committee on a confidential basis the allocation by state, and the obligations by state through March 31 1983, for the purchase of information and evidence.

DEA allocates domestic funds for the purchase of evidence and payment for information (PE/PI) to nineteen field divisions. Those field divisions having district offices under them can suballocate to that level, but not down to the resident office level. Resident offices utilize the field division or district office PE/PI funds on an as needed basis. Those land-border states in which DEA has resident offices only include Maine, New Hampshire, Vermont, North Dakota, Montana, and Idaho. This does not mean, however, that PE/PI funds in any amount are not available to those states.

Expenditure of PE/PI funds is dependent upon the pre-determined or potential significance (class) of a particular investigation and/or the overall ongoing or potential investigative activity in a given area. Should the investigative activity in the area covered by any of our resident offices, be it Burlington, Vermont; Fargo, North Dakota; or Chicago, Illinois, dictate the need for additional PE/PI funds, every effort would be made to satisfy their needs regardless of amount. Dependent upon overall PE/PI availability (for example, PE/PI resources are sometimes scarce near the end of a fiscal year) it is rare that reasonable requests for additional funds are denied. The ability to shift funds within and between field divisions enables DEA to respond rapidly to needs for PE/PI funds anywhere in the United States. DEA feels that this flexibility facilitates effective management of the overall PE/PI allowance.

A listing of obligations through March 31, 1983, is attached.

Drug Enforcement Administration
Purchase of Evidence/Payments for Information
Obligations by State or Territory
as of March 31, 1983
(In thousands of dollars)

State	Total	State	Total
Alabama	$7	Montana	...
Alaska	6	Nebraska	$8
Arizona	142	Nevada	52
Arkansas	16	New Hampshire	5
Bahamas (Nassau)	2	New Jersey	74
California	824	New Mexico	43
Colorado	89	New York	1,112
Connecticut	41	North Carolina	4
Delaware	29	North Dakota	5
District of Columbia	201	Ohio	106
Florida	266	Oklahoma	...
Georgia	100	Oregon	73
Guam	...	Pennsylvania	206
Hawaii	29	Puerto Rico	25
Idaho	7	Rhode Island	10
Illinois	256	South Carolina	16
Indiana	76	South Dakota	...
Iowa	6	Tennessee	9
Kansas	8	Texas	388
Kentucky	15	Utah	11
Louisiana	53	Vermont	1
Maine	2	Virginia	33
Maryland	70	Washington	110
Massachusetts	103	West Virginia	1
Michigan	174	Wisconsin	10
Minnesota	14	Wyoming	...
Mississippi	1		
Missouri	73	Grand Total	4,912

U.S. MARSHALS SERVICE

STATEMENT OF WILLIAM E. HALL, DIRECTOR

ACCOMPANIED BY:

JOHN T. TWOMEY, DEPUTY DIRECTOR

GARY MEAD, ASSISTANT DIRECTOR FOR ADMINISTRATION

JAMES A. SHEALEY, COMPTROLLER

KEVIN D. ROONEY, ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION

CHARLES R. NEILL, CONTROLLER

JOHN R. SHAFFER, DIRECTOR, BUDGET STAFF

GENERAL STATEMENT

Senator **RUDMAN**. Next, the committee will review the request for the U. S. Marshals Service. Appearing on behalf of the Service is its Director, Mr. William Hall.

Mr. Hall, we are pleased to hear your statement. If you will summarize, we will include your entire statement for the record.

Mr. **HALL**. Thank you, Mr. Chairman.

I would like to briefly summarize the request for the U. S. Marshals Service for the 1984 appropriation.

Our request provides for 2,068 positions and $114,434,000 which is a net increase of $6,991,000 in funding over 1983.

The major change in our appropriation request provides for a 50 position decrease for service of private process. The Service will continue to provide the private process service when there are indigents or admiralty matters involved.

In the security support area there is a 31-position increase to return to the 1979 level for security and a $913,000 increase and an additional $3 million increase to fund specific high profile details.

In the support of prisoners the appropriation request is for $44,768,000 and this is an increase of $10,514,000 over 1983. This is reflecting our estimated jail cost of $39.38 per day, an increase of 22,120 in jail days.

If you have any specific questions, we will be pleased to answer them.

[The statement follows:]

PREPARED STATEMENT OF WILLIAM E. HALL DIRECTOR, U.S. MARSHALS SERVICE

Mr. Chairman and members of the subcommittee: I am pleased to have the opportunity to appear before you in support of the 1984 appropriation request for the U.S. Marshals Service, This request provides for 2,068 positions and $114,434,000 which is a net increase of $6,991,000 in funding and a decrease of 19 positions from the anticipated appropriation of 2,087 positions and $107,443,000 for 1983.

This request includes $4,561,000 for uncontrollable increases, nonrecurring decreases of $414,000 and program changes totalling $2,844,000.

FUGITIVE INVESTIGATIONS AND COURT ORDERS

A program decrease of 50 positions and $1,069,000 is requested due to a reduction in the service of private process by Deputy U.S. Marshals. Public Law 97-462 relieves the Marshals Service from the responsibility for service of most private process. The Service will continue to serve private process in cases involving indigents, admiralty and when the presence of a law enforcement officer is required.

An increase of $913,000 and 31 positions is requested to restore the Court Security Program to its 1979 position level. This increase would ensure that all criminal trials projected for 1984 will be adequately supported.

An additional increase of $3,000,000 is requested to fund specific details requiring extraordinary levels of security. These funds have been provided in recent years by an annual supplemental request. However, only $1,000,000 was included in the base amount.

SUPPORT OF U.S. PRISONERS

The Service is also requesting $44,768,000 for the support of U.S. Prisoners appropriation in 1984. This is an increase of $10,514,000 over the anticipated appropriation for 1983.

An increase of $5,000,000 for this appropriation is requested to fund the estimated 100,000 jail days not funded at the base level and to compensate for the 24 percent increase in rates charged by local governments for detention services not totally reflected in uncontrollable increase. There is a projected increase of 22,120 days of paid confinement and 600 days of hospital services in addition to enhanced levels of mandatory prisoner health care services provided under jail contracts and out patient care expected over the fiscal year 1983 level.

COOPERATIVE AGREEMENT PROGRAM

I would like to note that although this request contains no funds for the Cooperative Agreement Program, this is a language change that would permit this appropriation to use up to $10,000,000 of the funds in the "Organized crime drug enforcement" appropriation for the purpose of renovating, equipping and constructing State and local jail facilities that we need to house Federal prisoners. These funds are to be used to bring existing jails up to Federal standards and to assure that space is available near Federal courts for pre-trial detainees and those awaiting transfer to Federal correctional facilities.

This concludes my prepared statement, Mr. Chairman. I shall be pleased to answer questions you or members of the Subcommittee may wish to ask.

STATE AND LOCAL ASSISTANCE

Senator RUDMAN. We have a few questions and we will have a few, possibly, for the record.

I wonder if you might explain something in your submission. You say in your budget submission, "When funding is available, general or specific assistance is provided to State and local law enforcement agencies." That is on page 52. What is that funding used for and what criteria do you have for distributing the money?

Mr. HALL. I think there is ambiguity there. It is not a distribution of funding specifically. What we are talking about is our providing training in the Federal Law Enforcement Academy.

Senator RUDMAN. On space available basis?

Mr. HALL. Yes. We have also reimbursed on a limited basis a few of the local governments where operations have been conducted and local governments assisted. We have reimbursed them for expenses they have incurred, but it is no direct distribution of funding other than reimbursement.

EQUIPMENT

Senator **Rudman**. I understand from your submission you are researching the question of standardization of equipment. Is it very understandardized at this time?

Mr. **Hall**. I think "very understandardized" is an overstatement. I think there are some people in law enforcement that want to use the weapon they feel most comfortable with. While you have certain advantages, I think you have to have a standard round for ammunition, you have interchangeability for the same type of ammunition, the replacement of standard parts. It is more cost-effective.

What we are trying to do is go to one standardized arm weapon, one standardized shoulder weapon, one standardized shotgun, so that the cost to replace it will be standardized, and the surplus will be less. That is what we are striving for.

Senator **Rudman**. You hope to have that study work completed this year?

Mr. **Hall**. Yes, sir.

Senator **Rudman**. And tell the committee next year?

Mr. **Hall**. That is right. In fact, we have already made some major progress on that.

SUPPORT OF U.S. PRISONERS

Senator **Rudman**. On support of U.S. prisoners, the service is anticipating a 25-percent increase in rates charged by local governments for detention services. It seems rather high in light of the inflation factor being under 5 percent. Is there a reason for that?

Mr. **Hall**. There are several reasons for it. I think one of the primary reasons is that the Federal Government enacted into law higher standards of confinement to be provided by local jails and we are depending on them to provide jail space. At the same time the law requires that Federal prisoners be provided minimum standards of treatment which the local jails have to do, and in response to this they are increasing their daily charges made to us. We had a 3-year contract and now it is a 1-year contract. That is reflective of the higher cost. Some of these contracts were due in 3 years and now the 1-year contract is reflecting the higher rate.

COOPERATIVE AGREEMENT PROGRAM

Senator **Rudman**. You have a cooperative agreement program and I believe there is about $20 million in the jobs bill for that program. What is going to assure that funding provided to the States and local governments and rehabilitation of that program are used to ultimately house your Federal detainees and not become a general subsidy for local prisons?

Mr. **Hall**. We are going to require guarantees by the local authorities. They will provide us with *x* number of jail spaces before we enter into an agreement. That has to be one of the clauses in the agreement; we provide *x* number of dollars and they in turn will guarantee a certain number of spaces on a competing basis for a period of years.

Senator **Rudman**. And you will have those available whether you use them or not, they will be there for you to use in the event that you need them?

Mr. **Hall**. That is right.

SUBMITTED QUESTIONS

Senator **Rudman**. We do have a few other questions for you but I believe your submission was very clear and I think those are some of the questions we didn't understand.

We will have others and we will get them to you and if you will answer them as soon as possible.

Mr. **Hall**. Thank you. We appreciate being here.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR LAXALT

U.S. Marshals Service

Question. Please describe your Fugitive Investigative Strike Team (FIST) and tell us how its operations differ from your ordinary fugitive apprehension efforts.

Answer. The FIST concept was designed to augment fugitive squads where intelligence data indicated a large number of collecteral leads or a sudden increase in case volume. The program is intended to apprehend major fugitives in key cities throughout the United States and is part of the Administration's commitment to remove dangerous, violent criminals from our streets.

FIST operations differ from our normal fugitive apprehension efforts in that they utilize a greater concentration of manpower for a specific area. Both FIST III in New York City and FIST IV in Washington, D.C., were joint efforts of the U.S. Marshals Service and the police departments of those two cities. Because of the successful results in both locations, all of our future FIST operations will be conducted in conjunction with state and local police authorities.

Question. Also, according to your submissions, the Marshals Service has developed comprehensive intelligence on motorcycle gangs in the United States. What is the reason you focus solely on these gangs? What do you do with the information gathered? What is the basis for initiating this program?

Answer. Motorcycle gangs are well organized, highly mobile, and have access to sizable funds. In addition, it has been established that numerous members are connected to or involved with the criminal element.

Several years ago, our staff at the Federal Law Enforcement Training Center, in Glynco, Georgia recognized a need for training in this area. The course was well received and has resulted in numerous requests from state and local police authorities for training in this area.

In response to the President's request to federal agencies to become more involved in state and local training, a publication was prepared and a full day seminar developed. The seminar has been presented to over 4,000 law enforcement officers from approximately 40 different municipalities.

Jobs Bill and the Support of U.S. Prisoners

Question. As you know, the Jobs Bill provided $20 million for the CAP Program. Does this alter the Department's request for Support of U.S. Prisoners? If so, why?

Answer. The Jobs Bill would reduce the Department's total requested Cooperative Agreement Program (CAP) funding for 1984 by $10,000,000. This reduction is shown in the pending 1984 amendment for the Organized Crime Drug Enforcement appropriation.

This CAP funding will not reduce the Department's requirements for the Support of U.S. Prisoners appropriation. The purpose of CAP is to enable the Department to acquire guaranteed dentention space. It does not pay for the ongoing operational expenses of a facility. Ongoing operational expenses related to housing federal prisoners are reimbursed to local governments on a per diem basis. The average national per diem cost for housing a federal prisoner is approaching $32.

Funding of CAP may result in increased cost to the Support of U.S. Prisoners appropriation in some localities. For instance, the CAP project being negotiated with Clark County, Nevada would provide the Department with over sixty-five guaranteed detention spaces. The Nevada federal prisoners have been, until recently, housed in federal institutions in San Diego, California and Tucson, Arizona at no cost to the Support of U.S. Prisoners' appropriation. The estimated annual cost to this appropriation when the county's new space is available would exceed $800,000 per year. The current jail day rate at Clark County jail is $70.

FEDERAL BUREAU OF PRISONS

STATEMENT OF NORMAN A. CARLSON, DIRECTOR

ACCOMPANIED BY:

- WADE B. HOUK, ASSISTANT DIRECTOR, DIVISION OF PLANNING AND DEVELOPMENT
- GERALD M. FARKAS, ASSOCIATE COMMISSIONER, FEDERAL PRISON INDUSTRIES, INC.
- ALAN F. BREED, DIRECTOR, NATIONAL INSTITUTE OF CORRECTIONS
- LUMAN N. RENSCH, JR., CHIEF, OFFICE OF BUDGET DEVELOPMENT
- DAVID J. SWEDA, BUDGET OFFICER, OFFICE OF BUDGET DEVELOPMENT
- KEVIN D. ROONEY, ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION
- CHARLES R. NEILL, CONTROLLER
- JOHN R. SHAFFER, DIRECTOR, BUDGET STAFF

BUDGET REQUEST

Senator RUDMAN. Our last request is for the Federal Bureau of Prisons. Appearing on behalf of the Bureau is its Director, Mr. Norman A. Carlson.

Mr. Carlson, the Chairman has asked me to thank you and all your people for the information they provided the committee during debate on the jobs bill on prison construction needs. We are pleased to hear your statement. We would like you to summarize it.

Mr. CARLSON. Mr. Chairman We are requesting a total of $535,070,000 and 9,357 appropriated positions for 1984. This represents an increase of $119,931,000 and 212 positions. I would like to state that we plan to apply $54 million of the money provided in the jobs bill to some of the construction projects requested for 1984 after they are approved by the House and Senate committees.

PROBLEM OF OVERCROWDING

The major thrust of our request is to reduce the critical level of overcrowding. As you know, nearly every State prison system and the Federal system have increased in inmate population during the past several years. Today the Federal population stands at 29,800, an increase of 5,400 in the past 2 years alone. The major portion of the increase is the result of the focus that DEA and FBI are making on major narcotics violations as well as organized crime cases. Inmate commitments for major narcotics violations were up 23 percent last year over the preceding year. The average length of sentence time imposed went up 11 percent. Federal judges are imposing longer sentences because they are quality cases.

The existing capacity of the Federal prison system is 24,000 inmates. Today we are 24 percent over capacity. It is difficult to accurately predict what is going to happen in the future. There are many variables and uncontrollables involved. When all of the narcotics task forces become operational, however and begin doing quality cases, the increase in inmate population will be even more dramatic.

We estimated in the budget that the average population for 1984 will be 30,000 inmates. We will probably reach that next week.

The 1984 budget request attempts to attack the problem of overcrowding in three basic ways. First of all, we have asked for an increase of $6 million which will enable us to place 500 more inmates per day in halfway houses. These are people about to be released whom we place in halfway houses for the last 120 or 90 days of their sentence. The $6 million will give us additional capacity equivalent to one institution. These are essentially nonviolent and nondangerous offenders. We screen out those we consider a threat to society. Those who are not a threat and who we feel will be helped are placed in halfway houses.

In addition, the organized crime drug enforcement program requests 1984 funds to expand housing units in three additional institutions. As you recall, the organized crime drug enforcement program for 1983 provided $18 million to expand capacity at seven existing institutions. We are expanding by building additional housing units at those institutions where possible.

Third and most important, we are requesting the construction of two new institutions. The first, and our top priority, is the Metropolitan Correctional Center in Los Angeles. At the present time we are housing over 400 pretrial detainees at the Terminal Island Correctional Institution located south of Long Beach. This facility was not built for detention and its distance from the U.S. courthouse creates problems of the courts, defense attorneys for the U.S. Marshals Service and U.S. attorneys. We believe it is a necessity to build a facility in the Los Angeles area to take care of the expanding pretrial detention load in that part of the country.

In addition, we are asking for funds to construct a Federal correctional institution for the northeast region. The northeast and west are the two heaviest regions for new commitments.

Finally, we are asking for planning and site acquisition funds to begin planning for a second institution in the northeast region.

Let me conclude by saying that we are also attempting to acquire additional surplus properties. As you may recall, we opened two prison camps on former Air Force bases, one in Boron, Calif., and one in Big Spring, Tex. We are currently in the process of attempting to acquire a similar facility near San Diego. Within the next several weeks we are going to be actively looking at a recently deactivated Air Force base in the north central region.

In addition to the funds requested for additional capacity, we are requesting funds to staff a new hospital unit at the Medical Center in Springfield, Mo.; to increase medical coverage at existing institutions to meet the standards established by the courts and accreditation organizations; and we plan to continue to modernize the facility at Leavenworth, Kan., a U.S. penitentiary which, as you know, was built back before the turn of the century and is in desperate need of a major modernization.

In conclusion, let me say we are attempting to address the problems of overcrowding both in the short run and in the longer run by beginning to plan new institutions. We fully anticipate the population increase we have seen in the past 2 years is only a beginning of what we are going to see in the future.

[The statement follows:]

PREPARED STATEMENT OF NORMAN A. CARLSON

DIRECTOR

BUREAU OF PRISONS

Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to appear before you to discuss the Federal Prison System's budget request for 1984.

We are requesting a total of $535,070,000 and 9,357 appropriated positions for 1984, an increase of $119,931,000 and 212 positions above current year levels. The major thrust of the increase is to reduce the critical level of institutional overcrowding which has resulted from the rapid growth in inmate population.

Institutional Population

Correctional systems throughout the nation are experiencing unprecedented growth in offender populations. Since March 1981, inmate population in the Federal system has increased 5,400 to a total of 29,800. A major portion of the increase in inmate population is the direct result of expanded law enforcement efforts against drug trafficking and organized crime. Inmate commitments in 1982 for major drug violations increased by 23 percent over 1981. At the same time, the average sentence for narcotics offenses increased by 11 percent.

The current Federal prison population of 29,800 is housed in facilities with a rated capacity of only 24,000. This results in a shortfall of 5,800 or an overcrowding level of 24 percent. We believe that the inmate population will continue to increase during the 1980's, averaging at least 30,000 during 1984 and reaching 31,300 by 1987. These estimates are admittedly conservative to insure that we do not needlessly expand capacity and, thereby, waste scarce Federal resources.

Mr. Chairman, we are attempting to reduce the critical level of overcrowding in three ways:

- Increasing the number of offenders in community treatment centers (CTC's). The budget requests $6 million to place an additional 500 inmates in CTC's which will reduce institution population.

- Increasing capacity at existing institutions wherever possible by constructing additional housing units or satellite camps. The Department of Justice received 1983 funds to expand seven institutions by 780 beds as part of the Organized Crime Drug Enforcement Program. The 1984 request for this same program includes funds for 340 more beds at three additional institutions.

- Constructing new facilities. Funds have previously been provided for construction of a Federal Correctional Institution in Phoenix, Arizona which will provide 400 additional beds when construction is completed in May of 1985.

Despite these efforts, Federal institutions will be at least 24 percent overcrowded by 1987 unless additional funding is provided. With longer sentences being imposed by the Federal Courts and more violent offenders, this would be an intolerable level of overcrowding which could lead to increased violence within institutions and higher escape rates. Furthermore, we would expect serious criticism from the Federal Judiciary regarding overcrowding and conditions of confinement. The recent tragic murders of two of our staff members is an example of the increasing violence which we cannot tolerate in our institutions. We must act responsibly to assure that both staff and inmates are provided security and protection.

New Construction

We are requesting $77,450,000 for three projects which would further reduce overcrowding. The first of these is the construction of a critically needed Metropolitan Correctional Center in Los Angeles, which will provide a long term solution to a serious detention problem in that area. We are temporarily housing over 400 pre-trial detainees at the Federal Correctional Institution, Terminal Island, California, a facility which was not designed for detention purposes and has major security weaknesses. Also, defendants must be transported considerable distances back and forth to Federal Court at great inconvenience to the judges, the U.S. Marshals Service and to the inmates' attorneys. With the construction of the Metropolitan Correctional Center, Terminal Island can be restored to its original mission of housing sentenced Federal offenders and thereby alleviate serious overcrowding in the western region.

We are also requesting construction and site acquisition and planning funds for two urgently required Federal Correctional Institutions for the northeast region. In addition to helping reduce overcrowding, the proposed institutions will permit us to keep a higher percentage of offenders closer to their homes. This is a goal which we believe facilitates the maintenance of family ties, thereby increasing the chances of an offender's success following release.

Alternatives to New Construction

We recognize that new prison construction is expensive and we are continually seeking alternatives. In recent years, we have acquired surplus property and in a short period of time converted it for correctional use at a relatively low cost. Recent examples include the Federal Prison Camps at Boron, California and Big Spring, Texas. Although we have met some local opposition, we are continuing with efforts to acquire the former Mt. Laguna Air Force site near San Diego. We have recently identified two additional properties which we believe could be economically converted for use as prison facilities. If these properties prove suitable and are obtainable, we would seek future funding for their acquisition and conversion.

Other important increases requested in this budget would:

- Provide for adequate inmate medical care and permit the activation of a newly renovated 105-bed unit at the Medical Center in Springfield, Missouri.
- Finance the costs of an increased inmate population.
- Continue the modernization of Leavenworth and provide for other important modernization and repair projects.
- Increase inmate employment opportunities in Federal Prison Industries, Inc.

Sentencing Reform

Finally, Mr. Chairman, I believe prison space is a finite and increasingly scarce resource in the Federal Criminal Justice System. We must use it wisely in order to maximize its impact. In this context, I continue to support the proposal for the establishment of a Sentencing Commission which would develop guidelines for Federal Judges. This proposal is included in the President's proposed Comprehensive Crime Control Act of 1983. Available and planned prison capacity are important criteria which can be used in developing such guidelines in order to insure that space is available for violent and dangerous offenders. At the same time, we cannot fall victim to the "tail wagging the dog" syndrome and permit insufficient prison capacity to thwart our Federal law enforcement efforts. It is a delicate balance that must be continually examined. I believe that the 1984 budget request we have presented is realistic and seeks to maintain that balance.

This concludes my statement, Mr. Chairman. I would be pleased to answer any questions you or your colleagues may have.

IMPACT OF HOUSING CUBAN DETAINEES

Senator RUDMAN. What impact on your population problems has resulted from the number of detainees that you are holding from the Cuban detainees who are deemed not to be safe to release?

Mr. CARLSON. We have 1,100 Cuban detainees, the majority of whom are housed in the U.S. Penitentiary in Atlanta, Ga. In effect, that entire institution is now turned over to the detainment of the Cubans. They must be detained in a maximum security institution and Atlanta is the only one available. We have tied up one complete institution solely for the 1,100 Cuban detainees.

USE OF JOBS BILL FUNDING

Senator RUDMAN. The House wanted to restrict the $60 million to repair and modernization of existing facilities and to forbid construction of new facilities. Under the final version of the Jobs bill, new construction can be taken only with the House and Senate committees' approval.

How do you intend to use that money at this point?

Mr. CARLSON. We will shortly be submitting to both committees a request for programing action. We propose to use $40 million of the $60 million for the construction of the Los Angeles Metropolitan Correctional Center. This facility has been a high priority for a number of years, and is the most critical project we have at the present time. In addition, we propose to use $3.4 million for site acquisition and planning for a northeast correctional institution. We also propose to use $6 million to add housing units at three existing institutions, and another $6.5 million to fund continued modernization of the Leavenworth Penitentiary.

All of these proposals are fully consistent with our long-range plans. These are not newly planned projects. We are just moving them forward from 1984. We had already planned to deal with the problem of overcrowding.

LOCATION OF NEW FACILITIES

Senator **RUDMAN**. You stated in your testimony that you are planning two new facilities, one in the west and one in the northeast region. Have you decided where those facilities are going to be?

Mr. **CARLSON**. No, we have not. However, one of the two in the northeast will probably be in the Washington/Baltimore/Philadelphia corridor. We have no facilities at the present time in this area. The number of cases being committed in Baltimore and Washington has expanded dramatically and we feel there is need in this general area.

Senator **RUDMAN**. And the one in the western part of the country?

Mr. **CARLSON**. That will be the Los Angeles facility. It will be as close to the U.S. District Courthouse in downtown Los Angeles as possible.

SUBMITTED QUESTIONS

Senator **RUDMAN**. Mr. Carlson, we have probably several other questions for the record which the staff will submit to you.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR HOLLINGS

Federal Prison System

Bureau of Prisons Health Program

The Committee notes in the Appendix to the Budget for 1984 (Pg. I-N18) that the Administration proposes a drastic reduction in the total number of Public Health Service Commissioned Corps Officers detailed to the Bureau of Prisons from 55 in 1983 to 9 in 1984. We presume physicians and other health staff would be drawn from General Schedule health personnel to staff BOP health facilities programs.

Provide the Committee with a background statement on the history of the Commissioned Corps details to the BOP, including a citation of any statutes authorizing such details.

There is a historic relationship covering more than 50 years of beneficial performance in which Commissioned Corps Officers have provided direct and supervisory medical services to the Bureau of Prisons. These Officers, working with other health personnel selected from the General Schedule, have enabled the Bureau to develop and maintain a medical program that is responsive to the diverse and nationwide needs of the federal prison population. The authority to assign Commissioned Corps Officers to the Bureau is contained in Titles 18 U.S.C. 4005 and 42 U.S.C. 250.

Provide a breakdown of Commissioned Corps details by function and facility to BOP for 1978, 1979, 1980, 1981, and 1982.

The following table provides the requested information.

PUBLIC HEALTH SERVICE COMMISSIONED OFFICERS ASSIGNED TO THE BUREAU OF PRISONS FOR THE PAST 5 YEARS

LOCATION	CATEGORY	FISCAL YEARS				
		78	79	80	81	82
CENTRAL OFFICE	Medical	2	2	2	2	1
	Dentist	1	0	0	0	0
	Health Services Officers	2	2	2	2	2
	Sanitarian	0	1	1	1	1
	Social Worker	1	1	1	1	1
NORTHEAST REGION						
Alderson, WVA	Medical	1	1	1	2	0
	Dentists	1	1	1	1	1
Allenwood, PA	Medical	0	0	0	0	0
	Dentists	1	1	1	1	1
Danbury, CT	Medical	0	0	0	0	0
	Dentists	2	2	2	2	2
	Psychologists	1	1	1	1	1
Lewisburg, PA	Medical	1	1	1	0	0
	Dentists	2	2	2	2	2
	Pharmacists	0	0	0	1	1
Morgantown, WVA	Medical	0	0	0	1	1
	Dentists	1	1	1	1	1
New York, NY	Medical	0	0	1	1	1
	Dentists	1	1	1	1	1
Petersburg, PA	Medical	1	1	1	0	1
	Dentists	1	1	1	1	0
Otisville, NY	Medical				0	0
	Dentists				1	1
Raybrook, NY	Medical				1	0
	Dentists				1	1
NORTH CENTRAL REGION						
Leavenworth, KS	Medical	1	2	2	2	2
	Dentists	2	2	3	2	2
	Pharmacists	0	0	1	1	0
Marion, IL	Medical	1	1	0	1	2
	Dentists	1	1	1	1	1
Milan, MI	Medical	0	0	0	0	0
	Dentists	1	1	1	1	1
Oxford, WI	Medical	0	1	1	0	0
	Dentists	1	1	1	1	1
Sandstone, MN	Medical	0	0	0	0	1
	Dentists	1	1	1	1	1
Springfield, MO	Medical	2	1	0	0	0
	Dentists	2	2	2	2	2
	Pharmacists	1	1	0	0	0
	Nurses	1	1	2	2	4
	Physiotherapists	1	1	1	1	3
Terre Haute, IN	Medical	1	0	1	0	0
	Dentists	2	2	2	2	2
	Pharmacists	0	0	0	1	0
SOUTHEAST REGION						
Ashland, KY	Medical	1	1	0	1	1
	Dentists	1	1	1	1	1
Atlanta, GA	Medical	1	1	1	1	1
	Dentists	3	3	2	2	2
	Pharmacists	1	1	1	1	1
	Psychologists	1	1	1	1	1
Butner, NC	Medical	0	1	2	3	3
	Dentists	1	1	1	1	1
Eglin, FL	Medical	0	0	0	0	0
	Dentists	1	1	2	1	1
Lexington, KY	Medical	1	0	1	1	1
	Dentists	4	4	4	4	2
	Laboratory Director	1	1	1	1	1
	Pharmacists	1	1	1	2	1
	Psychologists	2	2	2	2	2
Maxwell, Montgomery, AL	Medical	0	0	0	0	0
	Dentists	0	0	1	1	1
Talladega, AL	Medical	0	0	1	1	1
	Dentists	0	0	1	1	1

LOCATION	CATEGORY	FISCAL YEARS				
		78	79	80	81	82
Tallahassee, FL	Medical	0	0	0	0	0
	Dentists	1	1	1	1	1
Memphis, TN	Medical	1	1	0	0	0
	Dentists	1	1	1	1	1
Miami, FL	Medical	0	0	1	1	1
	Dentists	1	1	1	2	1
SOUTH CENTRAL REGION						
Bastrop, TX	Medical		0	0	0	0
	Dentists		1	1	1	1
Big Spring, TX	Medical			0	0	0
	Dentists			1	1	1
El Reno, OK	Medical	1	1	1	1	1
	Dentists	2	2	2	2	2
Ft. Worth, TX	Medical	0	0	0	1	1
	Dentists	1	1	1	0	1
	Pharmacists	0	0	1	1	1
	Social Workers	1	1	0	0	0
La Tuna, TX	Medical	0	0	0	0	0
	Dentists	1	1	0	1	1
	Pharmacists	0	1	1	1	0
Seagoville, TX	Medical	0	0	0	0	0
	Dentists	1	0	1	1	1
Texarkana, TX	Medical	0	0	0	0	0
	Dentists	1	0	0	1	1
WESTERN REGION						
Boron, CA	Medical				0	0
	Dentists				1	1
Englewood, CO	Medical	0	0	0	0	0
	Dentists	1	1	1	0	1
Lompoc, CA	Medical	0	1	1	1	1
	Dentists	2	2	2	3	3
	Pharmacists	0	0	1	1	1
McNeil Island, WA*	Medical	1	0	0	0	0
	Dentists	2	2	0	0	0
Pleasanton, CA	Medical	0	0	0	0	0
	Dentists	1	1	1	1	1
San Diego, CA	Medical	0	0	0	0	0
	Dentists	1	1	1	1	1
Terminal Island, CA	Medical	0	0	0	0	1
	Dentists	2	1	4	0	2
	Nurses	0	0	1	2	2
	Pharmacists	0	0	0	0	1

ALL REGIONS						
	Medical	16	16	18	21	21
	Dentists	48	45	50	49	49
	Pharmacists	3	4	6	9	6
	Psychologists	4	4	4	4	4
	Social Workers	2	2	1	1	1
	Health Sevices Officers	2	2	2	2	2
	Laboratory Director	1	1	1	1	1
	Nurses	1	1	3	4	6
	Physiotherapists	1	1	1	1	3
	Sanitarian	...	1	1	1	1
GRAND TOTAL		78	77	87	93	94

*Closed end of FY 1979.

Was the decision to phase-out the use of Commissioned Corps Officers in the BOP motivated by a decision within the BOP, HHS or OMB?

The decision to phase-out the use of Commissioned Corps Officers was mandated by OMB.

The Committee has been informed that Attorney General Smith and former Secretary Schweiker (HHS) exchanged communications in 1982 on the question of continued details of Commissioned Corps Officers to BOP's health program, and that both officials agreed that such practice should be continued in 1984.

Provide the Committee with all copies of such correspondence.

The following three letters detail the communication between the Attorney General and Secretary Schweiker:

THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

OCT 6 1982

The Honorable William French Smith
The Attorney General
Washington, D.C. 20530

Dear Mr. Attorney General:

I have received your July 2 letter requesting my comments on continuing to use Public Health Service Commissioned Corps officers to provide health care in the Department of Justice, Bureau of Prisons (BOP). This would reverse the policy of the FY 1983 President's budget for the Departments of Justice and of Health and Human Services which currently reflects a plan to phase-out the use of Corps officers in the BOP. It is my understanding that this policy is the result of an Office of Management and Budget (OMB) decision that the BOP should replace current Corps staff with general schedule personnel.

Although, the Department is willing, in principle, to continue assigning the prior levels of Corps officers to BOP, I would, nevertheless, like for your staff to explore the technical feasibility of the Department of Justice providing the necessary Full Time Equivalent (FTE) ceiling to support these officers. If agreement is reached between you and OMB on this matter and the necessary FTE are provided in the Department of Justice budget, we would be willing to assign the necessary Corps officers to the federal prison system.

Sincerely,

Dick Schweiker

Richard S. Schweiker
Secretary

Office of the Attorney General
Washington, D.C. 20530

November 18, 1982

Honorable Richard S. Schweiker
Secretary, Department of Health
  and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Dick:

I am responding to your October 6 letter concerning the use of U.S. Public Health Service Commissioned Corps in the Federal Bureau of Prisons. You stated that while you are willing to continue assigning the prior levels of Corps officers to the Federal Bureau of Prisons, you want us to explore the possibility of obtaining the necessary Full Time Equivalent (FTE) ceiling in our budget to support these officers. I am certain the Department of Justice can satisfy FTE ceiling requirements for this purpose.

The key task at hand is for our respective Departments to convince the Office of Management and Budget (OMB) to reverse their decision to eliminate PHS's direct delivery of health services in the Bureau of Prisons. I am pleased to note that you support us in this objective.

In order to promptly move this issue along, I have taken the liberty of asking Norman A. Carlson, Director of the Federal Bureau of Prisons, to contact your Assistant Secretary for Health, Edward Brandt. I believe that they should request a meeting with OMB Associate Directors Kenneth Clarkson and Annelise Anderson to discuss our common objective.

Sincerely,

Bill

William French Smith
Attorney General

Office of the Attorney General
Washington, D.C. 20530

July 2, 1982

Honorable Richard S. Schweiker
Secretary, Department of Health
 and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Dick:

On several occasions, the Director of the Federal Bureau of Prisons has briefed me on the critical problem the Department faces in attempting to provide medical and dental care for the 28,300 offenders currently in our custody. As I am certain you can appreciate, it is extremely difficult to find medical staff who are willing to work within the confines of a correctional institution.

This long-standing problem has become more acute in recent months as the result of a decision by the Office of Management and Budget to phase out the U.S. Public Health Service Commissioned Corps personnel who have provided the nucleus and direction for the Bureau of Prisons medical program for over fifty years. If the current plan is carried out, the Bureau will be forced to depend entirely on Civil Service personnel and contract services for all medical and dental care. It would also eliminate the group of young medical staff who have recently completed their education under the Public Health Service scholarship program.

The relatively small Public Health Service staff of 112 positions detailed to the Federal Bureau of Prisons is drawn from the larger pool of PHS officers. This arrangement has permitted the selective rotation and assignment of professional staff based on program needs. It has also provided a relatively stable group of senior commissioned officers, who during their tenure with the Bureau of Prisons, have developed an extensive knowledge of delivery of health care services to inmates. This cadre would be lost under the Office of Management and Budget proposal.

It is my understanding that there will be no cost savings resulting from the termination of the relationship between the Bureau of Prisons and the U.S. Public Health Service. In fact, the proposal will undoubtedly require additional resources if the Federal Bureau of Prisons is required to depend entirely on Civil Service staff and contract personnel.

I would appreciate any thoughts or comments you might have on this problem. If you concur, I would suggest we ask the Office of Management and Budget to review their decision in view of the considerations I have outlined.

Sincerely,

Bill

William French Smith
Attorney General

In face of Attorney General Smith's and Secretary Schweiker's support of continued Commissioned Corps detail to the BOP, why does the Administration persist in pursuing a phase-out of such details in 1984? -

It is our understanding that the Administration believes that economic benefits will accrue, i.e., the Federal Government will realize significant savings by utilizing the civil service recruitment mechanism rather than the Commissioned Corps. However, based on our more than 50-year relationship, the Corps provides both program effectiveness and continuity to our medical program and is an efficient means of delivering quality medical care to federal inmates.

The Committee is satisfied that high quality health and medical services have been made available to federal prisoners by the use of both Commissioned Corps and General Schedule health personnel assigned to BOP.

From your experience, do you believe that the quality of care provided by both the Commissioned Corps and General Schedule health personnel can be maintained through the exclusive use of General Schedule personnel?

No. A major and chronic problem has been the recruitment and retention of qualified and suitable General Schedule physicians and dentists. The unique aspects of practicing in a correctional setting discourages most candidates that we would consider for employment. PHS Officers are usually in the early segment of their career and are enthusiastic, highly trained, and well suited for duty in a correctional institution. In contrast, we have found that medical and dental professionals recruited through the Civil Service personnel system tend to be late career or post-retirement individuals with declining interests and skills.

Provide the Committee with a detailed analysis on a comparison of costs between the use of Commissioned Corps/General Schedule health personnel versus the use of General Schedule health personnel exclusively in the BOP health program.

The following tables provide the requested analysis:

Pay and Benefits Costs Analysis
U.S. Public Health Service Commissioned Officers Corps Positions Compared to and Differentiated from Civil Service Positions

List of Tables

Table 1 - Physicians Pay Cost Comparison to U.S. Government

Table 2 - Dentists Pay Cost Comparison to U.S. Government

Table 3 - All Other Health Care Professionals Pay Cost Comparison to U.S. Government

Table 4 - Summary of All PHS Positions Inclusive of All FY 1983 U.S. Government Costs

Table 5 - Physician's Comparability Pay Act (PL 97-141) Utilization on Total Costs

TABLE I

PHYSICIANS PAY COST COMPARISON TO U.S. GOVERNMENT

FY 83

FY 83	Pay - PHS				Pay - Civil Service						Total Salary and Benefits Cost to U.S. Government		
Level	Grades PHS	Pay & Allowances Gross Take-Home	Benefits	Total Cost	C.S. Grades	C.S. Pay	C.S. PCP	Pay & PCP Gross Take-Home	C.S. Benefits	C.S. Total Cost	PHS On Duty No. %	PHS	C.S.
1. Entry	03 under 2	38,686	9,215	47,901	GS-15	63,800	7,000	70,800	17,545	88,345	12 - 57%	574,812	1,060,140
2. Early Career	04 over 6	46,748	13,117	59,865	GS-15	63,800	10,000	73,800	17,545	91,345	5 - 24%	299,325	456,725
3. Mid-Career	05 over 10	59,036	15,218	74,254	GS-15	63,800	10,000	73,800	17,545	91,345	1 - 5%	74,254	91,345
4. Senior & Maximum	06 over 20 & above	77,550	25,404	102,954	GS-15	63,800	10,000	73,800	17,545	91,345	3 - 14%	308,862	274,035
		Includes all special pays, allowances & with VHA calculated at 24.0%.	Tax advantage, retirement & medical care, for officer & soc. sec. contribution. Calculated at .329 of basic pay. Retire-pay. Tax adv. Retirement & medical=.462 soc. sec.=.067.				PL-97-141 authorizes this pay to physicians and dentists.		Retirement, medical insurance, health insurance calculated at .275 of C.S. base pay. (Re: OPM Actuary Office.)		21 - 100%	1,257,253	1,882,245
												C.S. is 624,992 more (+) using FY 83 total pay and allowance comparisons. $\frac{624,992}{1,882,245}$ = 33% more.	

KEY:

1. C.S. = Civil Service, General Schedule
2. PCP = Physician's Comparability Pay Act PL-97-141 (12-29-81)
3. PHS = Public Health Service 10/82 Pay Scale.
4. VHA = Variable Housing Allowance

TABLE 2

DENTISTS PAY COST COMPARISON TO U.S. GOVERNMENT

FY 83

FY 83	Pay - PHS				Pay - Civil Service						Total Salary and Benefits Cost to U.S. Government		
Level	Grades PHS	Pay & Allowances Gross Take-Home	PHS Benefits	Total Cost	C.S. Grades	C.S. Pay	C.S. PCP	Pay & PCP Gross Take-Home	C.S. Benefits	C.S. Total Cost	PHS On Duty No. %	PHS	C.S.
1. Entry	03 under 2	25,886	9,215	35,101	GS-12	29,374	7,000	36,374	8,078	44,452	7 - 16%	245,707	311,164
2. Early Career	04 over 6	41,972	13,117	55,089	GS-12	33,290	10,000	43,290	9,155	52,445	18 - 42%	991,602	944,010
3. Mid-Career	05 over 10	49,907	15,218	65,125	GS-13	41,914	10,000	51,914	11,526	63,440	11 - 26%	716,375	697,840
4. Senior	06 over 10 06 over 20	54,438 66,084	17,220 22,140	71,658 88,224	GS-14 GS-14	49,533 49,533	10,000 10,000	59,533 59,533	13,622 13,622	73,155 73,155	1 - 2% 1 - 2%	71,658 88,224	73,155 73,155
5. Maximum	06 over 26	73,808	25,404	99,212	GS-14	53,661	10,000	63,661	14,757	78,418	5 - 12%	496,060	392,090
		Includes all special pays, allowances & VHA calculated at 26.8%.	Tax advantage, retirement & medical care, for officer & dependents, & soc. sec. contribution. Calculated at .329 of basic pay. Tax adv., retirement & medical =.462, soc. sec.=.067.				PL-97-141 authorizes this pay to dentists as well as physicians. We anticipate utilization if conversion to C.S. takes place.		Retirement, medical insurance, health insurance calculated at .275 of C.S. base pay. (Ref: OPM Actuary Office).		43 - 100%	2,609,626 C.S. is 118,212 less (-) using FY 83 total pay and allowance comparisons. 118,212 / 2,609,626 = 4.5% less.	2,491,414

KEY:

1. C.S. = Civil Service, General Schedule
2. PCP = Physician's Comparability Pay Act
   PL-97-141 (12-29-81)
3. PHS = Public Health Service 10/82 Pay Scale.

TABLE 3

ALL OTHER HEALTH CARE PROFESSIONALS PAY COST COMPARISON TO U.S. GOVERNMENT

FY 83

FY 83	Pay - PHS				Pay - Civil Service				Total Salary and Benefits Cost to U.S. Government		
Level	Grades PHS	Pay & Allowances Gross Take-Home	PHS Benefits	Total Cost	C.S. Grades	C.S. Pay Gross Take-Home	C.S. Benefits	C.S. Total Cost	PHS On Duty No. %	PHS	C.S.
1. Entry	03 under 2	24,686	9,215	33,901	GS-12	29,374	8,078	37,452	1 - 5%	33,901	37,452
2. Early Career	04 over 6	32,748	13,117	45,865	GS-12	33,290	9,155	42,445	1 - 5%	45,865	42,445
3. Mid-Career	05 over 10	37,536	15,218	52,754	GS-13	41,914	11,526	53,440	11 - 55%	580,294	587,840
4. Senior	06 over 10	42,067	17,220	59,287	GS-14	49,533	13,622	63,155	3 - 15%	177,861	189,465
	06 over 20	51,376	22,140	73,516	GS-14	53,661	14,757	68,418	2 - 10%	147,032	136,836
5. Maximum	06 over 26	57,550	25,404	82,954	GS-14	57,500	15,813	73,313	2 - 10%	165,908	146,626
		Includes all special pays, allowances & VHA calculated at 24.8%.	Tax advantage, retirement & medical care, for officer & dependents & soc. sec. contribution, calculated at .529 of basic pay. Tax adv., retirement & medical =.462, soc. sec. = .067.				Retirement, medical insurance, health insurance calculated at .275 of C.S. base pay. (Re: OPM Actuary Office).		20 - 100%	1,150,861 C.S. is 10,197 less (-) using FY 83 total pay and allowance comparisons. 10,197 / 1,150,861 = .009% less.	1,140,664

KEY:

1. C.S. = Civil Service, General Schedule
2. PCP = Physician's Comparability Pay Act PL-97-141 (12-29-81)
3. PHS = Public Health Service 10/82 Pay Scale.
4. VHA = Variable Housing Allowance

TABLE 4

SUMMARY OF ALL PHS POSITIONS INCLUSIVE OF ALL FY 1983 U.S. GOVERNMENT COSTS

A. Aggregate Costs

	PHS	Civil Service
1. Physicians	1,257,253	1,882,245
2. Dentists	2,609,626	2,491,414
3. All Other	1,150,861	1,140,664
TOTAL	5,017,740	5,514,323

B. Comparative Difference

Civil Service Total Cost	5,514,323
PHS Total Cost	-5,017,740
	496,583 ÷ 5,514,323 = 9%

C. Conclusion

It would cost, in aggregate, 9% more to convert existing PHS staff to Civil Service staff.

With a current PHS base of 84 positions (physicians: 21; dentists: 43; and all other health care professionals 20), this averages out to $5,912 per position, per year more, if current PHS staff are converted to Civil Service status.

TABLE 5

PHYSICIAN'S COMPARABILITY PAY ACT (PL 97-141) UTILIZATION ON TOTAL COSTS

Both Table 1 and 2 took into account utilization of the PCP "bonus."

For 21 physicians the annual bonus cost is $174,000.

For 43 dentists the annual bonus cost is $409,000.

Physicians and dentists combined bonus cost is $583,000.

1. Assuming that no bonuses are paid to either physicians or dentists, the Civil Service (CS) cost would be reduced as follows:

$$\begin{array}{lr} \text{CS} & 5{,}514{,}323 \\ & \underline{-583{,}000} \\ & 4{,}931{,}323 \end{array}$$

Keeping the P.H.S. costs constant the result is:

$$\begin{array}{lr} \text{PHS} & 5{,}017{,}740 \\ \text{CS} & \underline{-4{,}931{,}323} \\ & 86{,}417 \end{array}$$

PHS would be $86,417 more if no CS bonuses were paid.

$\frac{86,417}{5,017,740}$ = 1.7% more or $1,209 more per position per year (average).

2. Assuming that the PCP was only paid to physicians but not dentists:

CS	5,514,324
	-409,000
	5,105,324

Keeping the P.H.S. costs constant the result is:

PHS	5,017,740
CS	-5,105,324
	-87,584

PHS would be $87,584 less if only physicians were paid the bonus.

$\frac{87,584}{5,105,324}$ = 1.7% less or $1,043 less per position per year (average).

We are reliably informed there is no meaningful cost-effective advantage in the Administration's proposal to phase-out the use of Commissioned Corps in the BOP program. If so, can we conclude that this proposal is an integral part of the OMB's broader objective of drastically curtailing the size and use of the Commissioned Corps, if not eliminating it entirely?

Yes, it is our understanding that FPS' discontinued use of Public Health Service Commissioned Officer Corps to deliver health care services to federal inmates was the by-product of a broader action.

If the Committee restores the allocation of Commissioned Corps Officers to the 1982 level of 112, please provide us with a proposed staffing pattern by facility and function for this number of Comissioned Corps Officers.

The following table provides the proposed staffing pattern by facility and function:

PROPOSED STAFFING PATTERN FOR PUBLIC HEALTH COMMISSIONED OFFICERS ASSIGNED TO THE BUREAU OF PRISONS

LOCATION	CATEGORY	FY 83
CENTRAL OFFICE	Medical	1
	Dentist	0
	Health Services Officers	2
NORTHEAST REGION		
Alderson, WVA	Medical	1
	Dentists	1
Allenwood, PA	Medical	1
	Dentists	1
Danbury, CT	Medical	1
	Dentists	2
	Psychologists	1
Lewisburg, PA	Medical	1
	Dentists	2
	Pharmacists	1
Morgantown, WVA	Medical	1
	Dentists	1
New York, NY	Medical	1
	Dentists	1
Petersburg, PA	Medical	1
	Dentists	1
Otisville, NY	Medical	1
	Dentists	1
Raybrook, NY	Medical	1
	Dentists	1
NORTH CENTRAL REGION		
Leavenworth, KS	Medical	2
	Dentists	2
	Pharmacists	1
Marion, IL	Medical	2
	Dentists	1
Milan, MI	Medical	1
	Dentists	1
Oxford, WI	Medical	1
	Dentists	1
Sandstone, MN	Medical	1
	Dentists	1
Springfield, MO	Medical	2
	Dentists	2
	Pharmacists	1
	Nurses	5
	Physiotherapists	2
Terre Haute, IN	Medical	1
	Dentists	2
	Pharmacists	1

LOCATION	CATEGORY	FY 83
SOUTHEAST REGION		
Ashland, KY	Medical	1
	Dentists	1
Atlanta, GA	Medical	1
	Dentists	2
	Pharmacists	1
	Psychologists	1
Butner, NC	Medical	2
	Dentists	1
Eglin, FL	Medical	0
	Dentists	1
Lexington, KY	Medical	1
	Dentists	3
	Pharmacists	1
	Psychologists	2
Maxwell, Montgomery, AL	Medical	0
	Dentists	1
Talladega, AL	Medical	1
	Dentists	1
Tallahassee, FL	Medical	1
	Dentists	1
Memphis, TN	Medical	1
	Dentists	1
Miami, FL	Medical	1
	Dentists	1
SOUTH CENTRAL REGION		
Bastrop, TX	Medical	0
	Dentists	1
Big Spring, TX	Medical	0
	Dentists	1
El Reno, OK	Medical	1
	Dentists	2
Ft. Worth, TX	Medical	1
	Dentists	1
	Pharmacists	1
La Tuna, TX	Medical	1
	Dentists	1
Seagoville, TX	Medical	0
	Dentists	1
Texarkana, TX	Medical	1
	Dentists	1

LOCATION	CATEGORY	FY 83
WESTERN REGION		
Boron, CA	Medical	0
	Dentists	1
Englewood, CO	Medical	1
	Dentists	1
Lompoc, CA	Medical	1
	Dentists	2
	Pharmacists	1
McNeil Island, WA*	Medical	0
	Dentists	0
Pleasanton, CA	Medical	1
	Dentists	1
San Diego, CA	Medical	1
	Dentists	1
Terminal Island, CA	Medical	1
	Dentists	2
	Nurses	2
	Pharmacists	1

ALL REGIONS

Medical..................	38
Dentists..................	50
Pharmacists..............	9
Nurses....................	7
Health Services Officers..	2
Physiotherapists..........	2
Physchologists............	4
GRAND TOTAL	112

*Closed in 1980.

SUBCOMMITTEE RECESS

Senator RUDMAN. The subcommittee will now stand in recess until April 13, when it considers the request of the Supreme Court, Justices Powell and O'Connor; Commission on Security Cooperation in Europe, and the Commission on Civil Rights.

[Whereupon, at 12:35, a.m., Thursday, April 7, the subcommittee was recessed to reconvene, at 9:30 a.m. April 13, 1983.]

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1984

WEDNESDAY, APRIL 13, 1983

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 9:30 a.m., in room S-146, the Capitol, Hon. Paul Laxalt (chairman) presiding.

Present: Senators Laxalt, Rudman, Specter, and DeConcini.

THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

STATEMENT OF HON. SANDRA D. O'CONNOR, ASSOCIATE JUSTICE, U.S. SUPREME COURT

ACCOMPANIED BY:
- LEWIS F. POWELL, ASSOCIATE JUSTICE
- MARK W. CANNON, ADMINISTRATIVE ASSISTANT TO THE CHIEF JUSTICE
- ALFRED WONG, MARSHAL
- DINA ZUCCONI, DEPUTY MARSHAL
- JAMES A. ROBBINS, PERSONNEL AND ORGANIZATIONAL DEVELOPMENT OFFICER
- JAMES R. DONOVAN, DIRECTOR OF DATA SYSTEMS

INTRODUCTION OF WITNESSES

Senator LAXALT. We will be in order for the continuation of a series of hearings which the subcommittee has been conducting for these last several weeks.

Would the record indicate that we are meeting today with Senator Warren Rudman of the subcommittee?

We welcome you.

Senator RUDMAN. Mr. Chairman?

Senator LAXALT. Our first request today is that of the Supreme Court. We are very pleased, and, I might say, honored, to have with us today two distinguished members of the Court, Justice Sandra D. O'Connor and Justice Lewis F. Powell.

We welcome you. We appreciate your taking the time to join us today. We know full well how valuable your time is, so you may present your testimony.

Justice O'CONNOR. Thank you, Mr. Chairman.

Justice Powell and I appreciate very much the chance to be here this morning and to present the budget on behalf of the Court.

We have with us this morning people whom you may already know, but I would like you to meet them.

Dr. Cannon, who is the Administrative Assistant to the Chief Justice, and Mr. Wong, who is the Marshal of our Court, and Miss Dina Zucconi, who is the Deputy Marshal seated next to me, and Mr. Robbins, who is our Personnel Director, and Mr. Donovan, who directs our data systems, our word processing computer section.

Senator LAXALT. We are delighted to have you all here.

Justice O'CONNOR. The budget request has been submitted, of course. I will just give a very brief summary of it.

BUDGET REQUEST

The budget estimate for the fiscal year 1984 is $15,649,000, and that is an increase of $458,000 over the budget authority for 1983. The budget request is divided, as it usually is, between operations of the Court and maintenance of the buildings and grounds.

For the salaries and expenses, the operations part of the budget, we are requesting a total of $13,678,000. The balance, the $1,971,000, is for the care of the buildings and grounds.

Now, the operations side of the budget represents an increase of $523,000 over 1983, as adjusted, to reflect a proposed supplemental appropriation for salary costs, including medicare and health benefits.

SUPPLEMENTAL APPROPRIATION

The proposed supplemental appropriation covers pay increases effective in October, pursuant to Pub. L. 91–656. If we exclude from that the various mandatory increases and inflation, the actual increase in budget authority for court operations, which we are requesting for 1984 is $158,000 more than in 1983.

That increase includes three program changes: The main item is $96,000 for promotions and merit increases, and that would support some reclassification of graded positions, and it would cover an additional $57,000 for two additional positions: One of those is for assistant supervisor in the publications room, where the printing of opinions and printing work is done.

The assistant supervisor is needed in that unit to insure the quality of the product that comes out and to enable the staff to have a backup in the event of emergency absences, and also to assist in improving the utilization of our system.

The other new position would be in the curator's office to serve as a tour coordinator and film coordinator. We are having increasing demands for public tours and briefings, and this individual could maintain the audiovisual and film equipment and coordinate the tours and the briefings.

Our budget shows details for these items on pages 1.10 and 1.11. That would increase total full-time permanent personnel from 320 to 322.

We would be happy to answer questions from the committee, Mr. Chairman.

[The prepared statement of Justice O'Connor follows:]

PREPARED STATEMENT OF JUSTICE SANDRA D. O'CONNOR

SUPREME COURT OF THE UNITED STATES

Mr. Chairman and members of the committee, Justice Powell and I appreciate this opportunity to appear before your committee to address the budget requirements of the Supreme Court for fiscal year 1984.

We have with us today, the officers of the Court who prepare the budget and are familiar with its details: Dr. Cannon, Administrative Assistant to the Chief Justice; Mr. Wong, Marshal of the Court; Miss Zucconi, Deputy Marshal; Mr. Robbins, Director of Personnel; and Mr. Donovan, Director of Data Systems.

Our total budget estimate for fiscal year 1984 is $15,649,000. This is an increase of $458,000 over the budget authority for 1983.

As usual, the budget request is divided between operations of the Court and the maintenance of the building and grounds. We are requesting a total of $13,678,000 for salaries and expenses of the Court, and $1,971,000 for care of the building and grounds. My statement is limited to the salaries and expenses of the Court.

The $13,678,000 requested for the operations of the Court represents an increase of $523,000 over 1983, as adjusted to reflect a proposed supplemental appropriation for salary costs (including medicare and health benefits). The proposed supplemental appropriation covers pay increases effected October 1982 pursuant to Pub. L. 91-656. If we exclude the various mandatory increases and inflation, the actual increase in the budget authority for Court operations in 1984 is $158,000 more than in 1983.

This increase of $158,000 includes three program changes. The principal item is $96,000 for promotions and merit increases. This request directly supports the Court's objective to accurately classify graded positions and to place the best qualified candidates in those positions through promotions and merit increases. An additional $57,000 is requested for two additional positions. One of these will be an assistant supervisor in the publications unit. The assistant supervisor is required to help insure the high quality of the opinion work, support the maintenance of the system, provide staff backup in emergency absences and assist the supervisor in improving the utilization of the system. The other position will be an addition in the curator's office to serve as tour and film coordinator. The primary duties of this position will be the coordination and confirmation of tours and briefings, maintenance of the audio-visual and film equipment and cataloging.

The details and justifications for these items appear on pages 1.10 and 1.11 of our budget submission. The two additional positions will increase total full-time permanent personnel of the Court from 320 to 322.

This concludes a brief summary of our request. Our detailed budget submission has been filed with the committee. Justice Powell, the officers of the Court who are present, and I will be happy to answer any questions that you may have.

COURT WORKLOAD

Senator LAXALT. Thank you, very much, Justice O'Connor.

I might say our staff has reviewed in detail your submission. We find it to be in order. The request for the additional moneys, excluding inflation factors, as far as the chairman is concerned, is appropriate.

Tell me this: We hear a lot of discussion—I guess principally coming through some public statements by the Chief Justice and others—and we are certainly aware as lawyers—about the workload that you have over there.

Is there anything through this process, through the appropriations process, where we can be of help by providing additional support, personnelwise, or are the problems that you have far more fundamental?

Justice POWELL. Fundamental.

Justice O'CONNOR. I think we might both want to speak on that.

Senator LAXALT. Certainly.

Justice O'CONNOR. Mr. Chairman, in essence, we don't think that the problems with the Court cases would be substantially alleviated by increases in the staff. As your question indicated, we think the need is for more substantive changes.

In that regard, several things, of course, are possible which members of the court, including the Chief Justice, have addressed. One of them is the need to make the present appellate jurisdiction of our court discretionary, and it is hoped that that can be achieved. The Chief Justice, of course, has addressed the proposal of setting up a temporary national court of appeals to which some cases could be referred and which would utilize physical facilities in the new court for the Federal Circuit here and utilize existing Court of Appeals judges on a rotating assignment basis.

The other thing, of course, which could be helpful is the extent to which Congress is willing to examine such things as tightening up on administrative exhaustion requirements for section 1983 actions and considering any possible limitations on the numbers of times that habeas corpus can be sought.

These things affect the total caseload in the Federal courts, and I am sure Justice Powell would like to speak.

Senator LAXALT. Justice Powell?

Justice POWELL. I started to thank you, and you were very considerate to give us the opportunity to ask for additional personnel.

I suppose that is rarely done. I don't think that would help, as Justice O'Connor says.

In the final analysis, we do our own work, and while most of us have four law clerks, I don't think I could handle any more. [Laughter.]

Senator LAXALT. I think we all know where you are speaking from. [Laughter.]

Justice POWELL. You all gave us enough money to employ additional secretaries 3 or 4 years ago before we discovered the effectiveness and efficiency of word processing equipment. That has been very successful, so I agree with Justice O'Connor that I don't think that there is anything that the Appropriations Committee can do to help us.

I also agree with her that a great deal could be done, perhaps by the Congress and perhaps by the Supreme Court itself.

The fundamental problem is with the entire Federal judicial system, the overloads at the district court level. All of you know that, I am sure.

INCREASED FILINGS

The figures that were reflected in the report of the administrative office shows for the last fiscal year that I have seen, I think in 1981, that there are about 206,000 cases filed in the district court compared to 180,000 in the previous year.

Diversity jurisdiction cases were up from 45,000 to about 50,000. Section 1983 cases, intended basically to provide relief for fundamental violations of civil rights, is now being grossly abused by prisoners.

State prisonors, alone, filed 16,700 cases in the U.S. district court in fiscal 1981; some of them repetitive; many of them very frivolous.

But every time a case is filed, the process requires all sorts of paperwork, and any number of people look at them.

CORRECTIVE LEGISLATION

Senator LAXALT. Is this always required of the Justices in the legislation; is this work handled by administrative types? We are talking essentially about corrective legislation.

Justice POWELL. I think we are.

Senator LAXALT. I think we are.

Justice POWELL. I don't think there is any question about that.

Senator LAXALT. We are now in the process of working within time constraints in some of the areas like habeas corpus. I think we can help substantively in that respect. Some of these other matters, I don't know.

You know, in the years I have been here, some wonderment to me is that we continue to have these problems, in effect, with the whole Federal judicial system, and we talk about it a lot, but nothing ever seems to happen. It seems to me that perhaps we can work a bit more on that and coordinate to get a political union here. Dennis and I are both on the Judiciary Committee, as you know. Its load is awesome. I am concerned that we have to operate efficiently as the Supreme Court.

Justice O'CONNOR. I think there is no question, Chairman Laxalt, that congressional intervention of some kind is indicated, and through the years, in our Nation's history with the Federal court system, the workload has built up and then some form of congressional action has been necessary, and there have been three times in the history of the country, when the Congress has taken very significant action in that regard. The numbers would indicate maybe this is a time when a real focus is needed.

Senator LAXALT. Do you recall when the last significant action was taken with respect to the court?

Justice O'CONNOR. It depends on how you characterize significant. The last major change was, perhaps, 1925.

Senator LAXALT. That is 58 years ago.

Senator RUDMAN. Start moving forward.

Justice POWELL. Of course, every time you enact major legislation, litigation results, and of course courts begin to construe it, and the departments and agencies adopt regulations that require further construction.

So just the sheer force of additional legislation has an enormous impact on the system. Now and then, you adopt a statute that everybody approves of, in theory. Section 1988 is an example. It authorized the prevailing counsel in civil rights cases to be compensated at the expense of the losing party.

As a former litigation lawyer myself, I know what an invitation that is to bring lawsuits.

Senator LAXALT. We had some rather spirited debate within the committee on that one.

Senator De Concini?

Senator DECONCINI. Mr. Chairman, thank you.

I would be glad to yield to Senator Rudman. He was here before I was.

CHANGE IN THE JURISDICTION OF THE COURT

Senator RUDMAN. Thank you very much. It is a pleasure to be able to hear you both this morning. I think that you have both precisely defined the problem. As a former attorney general, Mr. Justice Powell, 1 year, I think I felt that there were 16,000 cases under section 1983 in which I was named the defendant. Unquestionably, the history of the court indicates that it was never intended to be the forum for the kind of jursidiction that we can now have forced upon you.

The great danger, it seems to me, unless the Congress addresses this soon, is that there has been a uniform quality of work in the court since its inception. But as the number of cases increased and as you wished to keep your backlog down and the time for adjudication short, unquestionably, human beings just have so much capacity. As you have stated, you are doing the work yourself, and of course you are. I am afraid, unless we have a major change in the jurisdiction of the court, that it is the quality of the opinion that must suffer or else the backlog will start to just balloon.

So I agree with the chairman, and I think the time has come for the Judiciary Committee to address section 1983, section 1988, habeas corpus, and automatic appeals from a number of administrative decisions by various agencies. There was never an intention, in my view, that the Supreme Court would adjudicate those kinds of things as you look at the history of the court.

No amount of money we could appropriate would solve that problem. I would hope, Mr. Chairman, that the Judiciary Committee would help the court with this problem, so we could perpetuate the enormous quality of that court over the centuries.

Senator LAXALT. Senator DeConcini?

NATIONAL COURT OF APPEALS

Senator DECONCINI. Thank you, Mr. Chairman.

Justice O'Connor, thank you for taking the time to visit with us and discussing these problems that we do overlook.

I would like to ask your opinion and your judgment as to the National Court of Appeals that has been talked about for some time. How much of a benefit to your actual workload as it were, is in that legislation?

Justice O'CONNOR. Well, that is hard to say. I think that it would have a beneficial impact in a couple of ways: We have cases today that we do not accept. We are very conscious, in deciding what to adjudicate, of the fact that we can handle only so many at a time in the court.

It would appear likely from the Chief Justice's proposal that perhaps up to 50 cases a year could be referred to the temporary National

Court of Appeals, and that might include some that we otherwise would have on our calendar and it might include a few that we otherwise perhaps wouldn't take.

Senator DeConcini. How many cases do you take? Two hundred and something?

Justice O'Connor. I think it averages about 150 for full written opinions. We handle more than that, of course, by way of summary dispositions.

Justice Powell. We had 184 cases last year.

Senator DeConcini. That opinions were handed down on?

Justice Powell. Some opinions; we dismissed a few of them, but as Justice O'Connor said, we had about 150 full court opinions, some of which included more than one case. About 150, yes.

Senator DeConcini. Justice O'Connor, then, you are talking about that the National Court of Appeals might take 50 of that 150?

Justice O'Connor. Well, I don't know precisely.

Senator DeConcini. I am talking in loose terms.

Justice O'Connor. I say a portion, and then perhaps some that otherwise we wouldn't be able to consider.

Senator DeConcini. One of the problems that I think maybe the judiciary realizes, but I think as the Supreme Court, as some of us feel, expands into far greater policy decisions than perhaps was at least the intent of Congressmen and Senators at the time of enaction of laws into public policy and what have you, you run across a real problem when you come to resolving or attempting to resolve some of the problems with your caseload.

You get into the restrictions of the court; that one man or one Senator's restriction is another one's violation of the first amendment or the fifth amendment or the 14th amendment as the case may be.

That is why the National Court of Appeals if, in fact, it would give a significant assistance to the Supreme Court, seems to me may be the practical approach, Mr. Chairman, of trying to stay away from the volatile issues that we get on appropriations bills every year rather than taking them up in the Judiciary Committee.

One other question, Justice O'Connor: The bankruptcy crisis that we are facing—when I say crisis, without having enacted direction of the recodification of 1978 in accordance with the Supreme Court's decision. Has that placed any greater burden on the Supreme Court itself?

Justice O'Connor. Senator DeConcini, it has not. That problem is being resolved. It is an issue at the district court level, and as far as any reports filtering to us. they seem to be working it out in some fashion.

But it has not caused any particular problem for us.

Senator DeConcini. You haven't seen a flow of cases stemming from that?

Justice O'Connor. Not yet. It might be in the pipeline some place, but we haven't experienced it.

Senator DECONCINI. The last question is, I don't know if you care to comment, Justice O'Connor. I am very concerned about the ninth circuit, having worked on the Omnibus Judgeship Bill of 1978 which was passed and the size of the ninth circuit, I think Justice Browning, Chief Judge Browning has done an outstanding job trying to administer that. We are in the process of taking up the administration's omnibus bill, and that is being looked at by another six or seven judges.

Do you have an opinion on the size of the circuit court? Do you feel that the ninth circuit is performing—and I don't mean to be critical, and I don't want to leave any inference that it is not—but are we better to have smaller circuits as we split the fifth than are we better to try to attempt to continue to administratively manage huge circuits like the ninth?

Justice O'CONNOR. That is a troublesome issue. I am not assigned as circuit justice in the ninth circuit. Justice Rehnquist is, and I'm not totally familiar with how it is functioning.

I notice various proposals have been made to divide it, and I don't know if a consensus has emerged, but Justice Powell has some familiarity with the situation there and might want to comment.

Senator DECONCINI. Could you comment, Justice Powell? I am not looking for an opinion that I am going to cite or quote either one of you. I am just looking for some assistance, because the fifth circuit, as you know better than I do, finally resolved it after opposing the position, for political reasons and other things, and it seems to be functioning very well. I am looking at the ninth and whether or not we need to address that.

Justice POWELL. They opposed it until after they had two or three en banc sittings, sometimes taking a day and a half to hear the arguments.

Senator DECONCINI. That is what brought it about.

Justice POWELL. The shift has been very successful in the fifth. I am not familiar with the situation in the ninth circuit. I am aware that the Chief Justice's present proposal on the National Court of Appeals is not as broadly based as some of the other proposals. It primarily—I think I am correct, Justice O'Connor—will resolve circuit conflicts. Such conflicts produce cases which shouldn't be at the U.S. Supreme Court, cases of taxation, for example, where people in Arizona are paying more taxes than the people in Virginia. Somebody has to settle that.

Another thing I think I would add, Mr. Chairman, when we talk about workload in the courts, we are not dealing, as we so often talk, with numbers alone. So many of the cases that come up through the Federal system are enormously complex, far more so than they ever were in the earlier history of our judicial system. One of the problems we have in court right now is that, because of public interest in some of these complex cases, we will have not only a brief by each of the parties alone, but we sometimes have 20 and 30 amicus briefs filed. We have cases in which arguments are coming up next week and the following week, the briefs are stacked up about 6 to 8 inches high. No one can read all of those, but they do demonstrate the public interest in some of these cases.

Senator DECONCINI. Thank you, Justices.

Justice O'CONNOR. Thank you, Mr. Chairman.

Senator LAXALT. Thank you.

Senator Specter.

Senator SPECTER. Thank you very much, Mr. Chairman.

I would like to pursue one line of questions. I hope I will not be repetitious. I could not be here earlier. We have the Republican delegation from Philadelphia here today. With me is party leader William Meehan, and State Representative Salvatore, and it is a very unusual occurrence to have a Republican organization in my big city. [Laughter.]

So it is a day of note. Had they had such an organization in a certain small town in the Midwest, the results of the recent election there might have been different. [Laughter.]

SPEED OF APPELLATE DECISIONS AND LIMITING LENGTH OF OPINIONS

It is a pleasure to see you here, Justice O'Connor. After 2 days before the Judiciary Committee in September 1981, and your sterling performance there, I understand why the Court has sent you here with Justice Powell to get the maximum appropriation. The question that I want to address is the question of the speed of appellate decisions, and the way we might approach the problem, with particular emphasis on the possibility of limiting the length of opinions, perhaps principally at the court of appeals level, maybe at the Supreme Court level, and perhaps even at the district court level.

The Congress has enacted legislation to provide for speedy trials in criminal cases. Perhaps we have the power to limit the timeframe on appellate decisions. I would be interested in your response as to our authority to do that, and the wisdom of such an undertaking on the part of the Congress.

Justice O'CONNOR. Well, we might both want to address that. Speaking first, I think that would be somewhat difficult to do. I fully agree with you that brevity is a great virtue and the opinions that are able to be written in a brief style and that come out a reasonable time after the arguments have been made are welcomed by the parties and the public and by other members of the court.

Not every case lends itself to this same treatment, unfortunately, and some of the cases in the Federal system, as well as in the State system, are inordinately complex.

You will have a case that perhaps has as many as 10 different issues, or we will have cases that are consolidated. It simply is not possible to even recite the essential facts and set forth even the barest essence of analysis of the case without consuming a great many pages.

And so it is not a thing that lends itself to solution by legislative fiat. I think it is something that we all need to work on.

Senator SPECTER. Justice O'Connor, we regularly face that problem in the Congress. We make decisions on subjects to which we cannot give the attention that we would like. We simply have to come to grips with them. It is always a balancing process of doing the best possible job under the circumstances. But there are many cases before the courts which wait long periods of time for disposition, and there are many opinions being written at all levels of the judiciary which are much longer than they have to be by any objective analysis.

How can we curtail the proliferating length of opinions, proliferation which only serves to enrich West Publishing? [Laughter.]

Justice O'CONNOR. Do you have any practical suggestions, Justice Powell? [Laughter.]

Senator SPECTER. I asked Justice Powell this question 2 years ago, so perhaps I will try again.

Justice POWELL. I wish I could remember what I said. [Laughter.]

I agree with Justice O'Connor that I'm afraid that it is not a subject that legislation could deal with very readily. The types of cases that come up at our court, as we both have said, sometimes require us to write fairly long opinions. You, I am sure, appreciate that we get our opinions out, I think, on the average perhaps more quickly than some of the other courts. We try to wind up the writing of opinions in every argued case in the course of a term by July 1. I think that sometimes this results perhaps in longer opinions than otherwise would be the case if we had a little more time to work on them in, say, the month of June.

I think we all agree that in the course of the basic overload of the Federal system, most Federal judges find it difficult to find the time to prepare the opinions that are necessary. So they are delayed in coming down.

I don't have any answer to that question, Senator Specter. I wish we did, because we have to read these doggone things. [Laughter.]

BRITISH JUDICIAL SYSTEM

Senator SPECTER. Justice Powell, what is your evaluation of the British system where, as least as I understand it, in many situations, British judges will hear an argument, they will confer, and they will step to the bench and dictate bench opinions. Those are not models for posterity, perhaps, but perhaps the greatest Supreme Court justice, present company excepted, Justice Holmes—I don't want to ask two questions at once. What do you know about the British opinions?

Justice POWELL. Well, I very much admire the British system, but it is important to recognize the vast difference between that small country compared to our country. All of the barristers in England and Wales, as I understand it, belong to one of the Inns of Court. They are all within one area of four or five blocks in London with the exception of a few out in some of the other cities. The judges and the barristers all know each other, and a decision today by a court in London becomes known quickly to the entire practicing bar, lawyers and judges.

In this country, we have to have opinions just so that the panels in the circuit, for example, know what other panels have decided. The Supreme Court, of course, writes for the entire Nation. Our systems are basically different from Great Britian because of the difference in size of the countries, also basically different because we have a Constitution and they don't. Parliament can have the last word any time it wants, and that might be very pleasant for Capitol Hill, but it's not our system.

Senator LAXALT. It would be a disaster. [Laughter.]

Senator DeConcini. Sometimes.

Justice POWELL. I again suggest that you have put your finger on a problem that particularly concerns the bar, it also concerns the lower court judges, because our opinions are too long.

Senator SPECTER. I had started to mention Justice Holmes before. I think his opinions stand as a model of brevity and forcefulness, and his stature has not been diminished in any way. So, though the example exists, it is not being followed. I think the situation has worsened in the 2 years since we talked about it, Justice Powell, when you were here in 1981 with Justice Rehnquist. By way of followup, I would be interested in any further ideas which you may have on the issue of speedy disposition in general, or as it relates to the length of opinions.

Thank you very much, Justices. Thank you, Mr. Chairman.

SUBMITTED QUESTIONS

Senator LAXALT. Do we have any further questions by any of the Senators? I guess that about winds it up. There will be additional questions submitted for the record.

Thank you very much for coming.

Justice O'CONNOR. Thank you very much, Mr. Chairman, and members of the committee.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR LAXALT

NEW POSITIONS

QUESTION:

The Court has requested funds for two new positions, an Assistant Supervisor for the Publications Unit and a Tour and Film Coordinator in the Office of the Curator. Please explain the details of the proposal.

ANSWER:

There are three basic reasons why an Assistant Supervisor is necessary. First, the existing supervisor must supervise the work of five employees and directly coordinate the work of the Publications Unit with the nine Justices' Chambers and numerous other departments in the Court. Maintaining good quality control over the work of the Publications Unit can be arduous. An Assistant Supervisor is needed to help maintain the high quality of work required from the Publications Unit and to address issues of preventive maintenance, since normal growth of the system imposes expanding responsibilities upon the supervisor. The number of work stations, or terminals, has increased from 55 to 71, with 80 persons trained and authorized to use the system. Those using the system continue to learn new methods which make them more productive. Our Publications Unit Staff must keep all of this equipment operating properly in addition to performing electronic typesetting chores. Second, the current supervisor does not have time to examine ways to improve our utilization of the Atex Computer System. Addition of an Assistant Supervisor will allow us to utilize the maximum potential of our computer system and to operate in the most cost-effective manner. Finally, the Assistant Supervisor will be a trained phototypesetter. At the present time we operate the computer system for 16 hours each weekday and 12 hours each day of the weekend without any back-up available during illnesses, vacations, or emergencies. The Assistant Supervisor will provide this back-up capability on our phototypesetting staff.

A formal tour program was recently instituted at the Supreme Court in response to numerous requests from government agencies and foreign dignitaries for guided tours to help educate the public about the Supreme Court. All members of Congress and their staffs have been notified of the availability of the program. The requests for tours have been so numerous that the Curator's secretary has been spending most of her time answering such requests and scheduling tours. The creation of this position will allow this educational tour program to continue and will allow the Curator's secretary time to complete her secretarial responsibilities.

AUTOMATED PRINTING SYSTEM

QUESTION:

In fiscal year 1979, the Court initiated a program to automate the opinion printing process and provide word processing capability to the Clerks and Justices. Please explain how these systems have increased the efficiency and productivity of the Court.

ANSWER:

The use of word processing has eliminated the formerly tedious chore of multiple re-types of opinion drafts by the law clerks and secretaries. Far less keying of text is required by eliminating the retyping of drafts and the proofreading of revised texts, except for changes. Entire functions, such as the page layout of a document, are performed by the computer. Secretaries store formats of correspondence, forms or memoranda in the computer, allowing them to avoid retyping commonly used forms or information.

The previous method of typesetting using hot metal linotypes also required time-consuming re-setting of type for each change made at the typesetting stage. Each change also required proofreading to catch keying errors. The editing process can be accomplished much more rapidly now and the need for proofreading has been eliminated.

The turn-around time to produce typeset versions of the opinions has been cut in half through use of the computer. By utilizing a high-speed copier, the provision of bench copies of the opinions to the press and public is more efficient, with paper volume reduced through the use of two-sided copying.

Soon after implementation of the system, the Court abolished nine budgeted secretarial positions for the Chambers as a direct result of the benefits achieved through the use of the word processing and publication system.

MERIT PAY AND PROMOTIONS

QUESTION:

The Court proposes an additional $96,000 for promotions and merit increases. Explain the elements of the merit pay program this request would support.

ANSWER:

The Court is not requesting an increased budget for promotions and merit increases; it is requesting the same level of funding, adjusted for inflation, approved by Congress last year. The funds represent the total funds available for FY 84 for all elements of our merit pay program for the 320 persons employed at the Court. The three elements are merit increases, promotions to more responsible positions, and reclassification. Merit increases require outstanding performance by an employee as indicated by a written performance appraisal by their supervisor. Each merit increase must be approved by the Chief Justice. The funds will also be used to fund reclassification of positions at the Court. There has been no general reclassification for 10 years. The Court commenced such a reclassification in FY 83 and our FY 83 budget also included some funds for reclassification. It is anticipated that many positions in the Court will be reclassified during FY 84.

It should be noted that previous to FY 1983, the Court was able to absorb this recurring expense for promotions and merit increases in its budget. In recent years, however, it has become necessary to follow the practice of other federal agencies and request specific funding for this purpose.

QUESTIONS SUBMITTED BY SENATOR HOLLINGS

CASELOAD

QUESTION:

During the 1981 term, case filings reach an all-time high of 4,422. Meanwhile, cases disposed of also was a record 4,433. However, the number of cases carried over--for the second year in a row--was lower than the previous year.

How has the Court been able to stay ahead of steadily increasing case load?

ANSWER:

The business of the Supreme Court has been accomplished by the nine Justices, with the assistance of their law clerks, and, since 1975, with the assistance of two legal officers. The federal courts generally, and the Supreme Court, have responded to their ever-increasing work loads with increases in productivity. The installation of word processing has been very helpful. However, as the Chief Justice noted in his year-end report "the 'unfinished business' outweighs the progress." The trend over the last decade has shown substantial increases in the number of cases filed with the Supreme Court. For the first time since 1925, the calendar for our current Term was substantially filled before the Term began in October of 1982. In the absence of substantive relief, there is no assurance that the Court will be able to "stay ahead" of the increasing caseload. Among a number of suggestions that have been made, is the proposal by the Chief Justice for the establishment of a temporary tribunal for resolution of intercircuit conflicts.

VACANCIES

The appendix to the President's budget indicates that the Supreme Court had 27 vacancies in the 316 permanent positions for fiscal 1982.

QUESTION:

Generally speaking, in what areas did these vacancies exist?

ANSWER:

The appendix to the President's budget correctly indicates the gross vacancy figure of 27 permanent positions at the end of FY 1982. However, this figures does not reflect offsets to the vacancy rate which include temporary indefinite appointments. Personnel records indicate that at the close of the fiscal year, the Court employed four individuals in that category. Thus, the gross vacancy rate at that time is reduced to a net figure of 23.

The majority of the 23 vacancies existed on the Court's police force. The remaining positions were scattered throughout the Court staff. The relatively high vacancy rate was primarily a function of severe budget constraints that faced the Court during FY 1982. Rather than institute a reduction-in-force, the Court chose to save the necessary funds by imposing a hiring freeze. The hiring freeze lasted throughout FY 1982 and created the high year-end vacancy rate reflected in the President's Budget.

QUESTION:

How many vacancies does the Court now have in the 320 permanent positions established for fiscal 1983?

ANSWER:

The Court currently has 32 vacant positions. This abnormally high vacancy rate exists for two primary reasons. First, the Court is actively recruiting for 12 positions. All of these positions should be filled in the very near future. Second, the Court is reorganizing the police force. The Chief Justice has imposed a hiring freeze on the police force until the reorganization is complete. When the police force reorganization is complete, it is possible that all the vacant positions could be filled.

QUESTION:

Is it possible for the Court to take care of the two additional positions requested for Fiscal 1984 within the positions now available?

ANSWER:

For reasons elaborated in Question 2, the Court vacancy rate is only temporarily at a high level. Since the primary purpose of the police reorganization is not a reduction in staffing, the two new positions which we requested in our FY 1984 budget still appear necessary. However, one of our overall budget goals is to limit growth or reduce unnecessary permanent positions whenever possible. If police positions are abolished by the reorganization, the Court will recommend that such action be reflected in our FY 1985 budget request, just as we did when we abolished nine secretarial positions recently after introducing word processing equipment to the Court. Unfortunately, it is impossible to predict at this time whether police positions will be abolished.

Even if our FY 1984 budget request for two new positions is granted, the Court will still be below its authorized staffing level for FY 1981. The Court reiterates its request for the two new positions.

SOCIAL SECURITY

QUESTION:

The Social Security Act Amendments of 1983 provides that all sitting judges, including the Justices of the Court, as well as employees of the Court appointed subsequent to December 31, 1983, will come under social security effective January 1, 1984.

What is the Court's estimate of the additional fiscal 1984 costs of extending social security to the Justices and new Court employees?

ANSWER:

The additional fiscal year 1984 costs of extending social security to Justices and new employees is estimated at $58,000. The estimate for this group is calculated at 5.7 percent up to a maximum salary of $35,700, for the nine month period from January 1, 1984, through September 30, 1984.

The social security tax effective January 1, 1984, will be 7 percent of wages. The 1984 budget was estimated to include 1.3 percent for the medicare portion for all employees. However, the remaining 5.7 percent of social security tax for the Justices and new employees was not programmed into the budget. Furthermore, the figure of $58,000 may be somewhat underestimated. This figure was based upon the current maximum taxable wages of $35,700 which will be subject to change. The earnings base, if changed for 1984, will be announced by the Social Security Administration during the latter part of 1983. If required, funding for the additional social security tax will be included in a supplemental budget request.

ARCHITECT OF THE CAPITOL

STATEMENT OF GEORGE M. WHITE, ARCHITECT OF THE CAPITOL

ACCOMPANIED BY:

WILLIAM L. ENSIGN, ASSISTANT ARCHITECT OF THE CAPITOL
WILLIAM F. RAINES, JR., ADMINISTRATIVE ASSISTANT
EMANUELE CRUPI, BUDGET OFFICER

BUDGET REQUEST

Senator LAXALT. Good morning, George. We will be in order. Our next request is for the care of the building and grounds account of the Supreme Court. Appearing on behalf of the request of $1,971,000 is George M. White, the Architect of the Capitol. We welcome you once again.

Mr. WHITE. Thank you, Mr. Chairman.

Senator LAXALT. I notice you have a tight schedule, and again, you have a meeting on the House side. So we will just move forward.

Mr. WHITE. I have just a brief statement to make, after which I would be pleased to answer any questions.

As you know, the Architect of the Capitol, by authority of the act of May 7, 1934, is responsible for the structural and mechanical care of the Supreme Court Building and grounds. We are not charged with responsibility for custodial care, which is under the jurisdiction of the Marshal of the Supreme Court and is provided for, as you know, under another appropriation.

In our prepared justifications for 1984, we have requested a total of $1,971,000, which is a decrease of $65,000 under the total of $2,036,000 for 1983. That includes a pending pay supplemental request in the amount of $36,000.

NONRECURRING ITEMS

The net decrease results from reduction of nonrecurring items of last year, offset, however, by some individual increases in the line items: $22,000 for annualization of Civilian Pay Act and wage-rate pay increases effective in October 1982 and the related mandatory benefits required by law; $13,400 to offset increased costs due to inflation for goods and services for annual recurring maintenance, such as exterior painting and caulking, supplies, and so forth.

Senator LAXALT. What kind of shape is that building in over there? It looks good.

Mr. WHITE. The building is in very good condition at this point. We hope to keep it that way.

Senator LAXALT. How old a building is that?

Mr. WHITE. It was completed in 1935.

Senator LAXALT. Going into 50 years.

Mr. WHITE. The building is almost 50 years old.

The nonrecurring items requested total $147,000 and include three basic items: The replacement of some heating system vacuum pumps, refurbishing the Supreme Court special library ceiling, and acquisition and installation of additional monitoring and control sensors for the energy management control system, all of which together totals $147,000.

That concludes the summary, Mr. Chairman. I would be glad to respond to any questions.

[The prepared statement of George M. White follows:]

PREPARED STATEMENT OF GEORGE M. WHITE

ARCHITECT OF THE CAPITOL

Mr. Chairman and members of the committee, I am pleased to appear before the committee to present the fiscal year 1984 appropriation request for the care and maintenance of the Supreme Court Building and grounds.

I thought it might be appropriate, if it is agreeable, Mr. Chairman, to present a brief summary of the request and then answer any questions that you may have concerning the detail.

As you know, the Architect of the Capitol, by authority of the act of May 7, 1934, is responsible for the structural and mechanical care of the U.S. Supreme Court Building and grounds. We are not charged with responsibility for custodial care, which is under the jurisdiction of the Marshal of the Supreme Court and is provided for in another appropriation.

In our prepared justifications for 1984, we have requested a total appropriation of $1,971,000. This represents a decrease of $65,000 under the total of $2,036,000 for 1983, which includes a pending pay supplemental request in the amount of $36,000.

Increases requested are: $22,000 for annualization of Civilian Pay Act and Wage-rate pay increases effected in October 1982, related benefits, premium pay and within-grade salary advancements authorized by law; $13,400 to offset increased costs due to inflation for goods and services procured for annual recurring maintenance items such as exterior pointing and caulking, supplies and materials, general repairs and air conditioning maintenance.

Nonrecurring items requested total $147,000 and very briefly include: replacement of heating system vacuum pumps ($60,000), refurbish third floor Supreme Court library ceiling ($31,000), and acquisition and installation of additional monitoring and control sensors for the energy management control system, not funded in the initial program for energy conservation ($59,000).

Mr Chairman, that concludes the summary and I shall be pleased to respond to questions.

LIBRARY AND LIBRARY CEILING

Senator LAXALT. I have a staff question here in connection with that $31,000 on the third floor——

Mr. WHITE. Yes.

Senator LAXALT [continuing]. On the effective current condition of the ceiling and why a renovation is needed.

Mr. WHITE. That ceiling is the original painted ceiling, completed in 1935, and it has not been touched since. Over the years, some of the paint has begun to flake off; the colors have faded; it's a beautiful room, as I think you may know.

Senator Laxalt. It sure is.

Mr. White. The library and the ceiling just need work after almost 50 years of being in place; some of the gold paint has deteriorated, and we think it is time to do that now. We did, as you know, the main Supreme Court room itself some years ago and also the main entrance lobby ceiling, all of which had deteriorated. We think it is now time to do this one, as well.

Senator Laxalt. Very well.

Last, you started your energy conservation program there, according to our files, in 1979.

Mr. White. That is correct.

Senator Laxalt. You are asking for another $56,000 for 1984. How is that working over there?

Mr. White. It is working very well. As you may know—perhaps I should explain—the program for energy conservation is Hill-wide. It begins at our central powerplant, and there is a control system for managing energy by computer throughout the Hill that is planned and partly in place.

Because the Supreme Court building was a discrete entity and easy to work on, we began with that one as a sort of pilot program for each individual building. We have installed energy management devices, I will call them, in all of the buildings on the Hill, not all of them are as far along as the ones in the Supreme Court. We sort of use that as a means of determining whether we are going in the right direction.

So it has worked quite well there. We installed many of the initial sensors and modified some of the fan motors in order to be able to control them better. We needed such things as meters to measure the chilled water flow. All of these sensing devices, then, go back to the main computer which "hears what they are saying" and decides whether or not to modify it and, therefore, predicts rather than react later to the needs of the building in terms of energy.

The amount that was appropriated previously in the Supreme Court was $66,000, of which $58,000 is already obligated and the other $8,000 will be obligated in due course. This additional $56,000 will complete the program for that building.

We believe that once installed and the whole system is in operation, it will pay for itself within 4 to 5 years.

Senator Laxalt. Very well.

Senator Rudman.

Senator Rudman. Thank you, Mr. Chairman. I would only comment that the building is certainly beautifully maintained. I walk to work in the morning and I always walk alongside the north side of the building. It is the most peaceful and beautiful place in Washington.

Senator Laxalt. It is a lot more peaceful than it is over here. [Laughter.]

Senator Rudman. It certainly is.

Senator Laxalt. Thank you very kindly. It is always a pleasure doing business with you, Mr. White. You did not get one west front question. That was all in the interest of time.

Mr. WHITE. I need all the kind words I can get.

Senator RUDMAN. I was not even going to ask him how the elevators work in the Supreme Court. [Laughter.]

Senator RUDMAN. That is an in-house joke.

Senator LAXALT. Thank you very kindly.

Mr. WHITE. Thank you.

SUBMITTED QUESTIONS

Senator LAXALT. Additional questions submitted by Senator Hollings will be inserted in the record at this point.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the record:]

QUESTIONS SUBMITTED BY SENATOR HOLLINGS

PARKING LOT

In 1981 Congress made a supplemental appropriation of $645,000 for the acquisition of the property used as the Court's parking lot. At the hearing on that request, it was said only "one or two more spaces" could be gained by better landscaping of the property.

Question. Now that the property has been acquired and improved, is it not correct that 5 additional parking spaces were gained by landscaping?

Response. By redesigning the configuration of the parking spaces, 7 additional spaces were gained.

Question. How much was spent on landscaping the property?

Response. A total of $29,640 has been obligated as of March 31, 1983, for parking lot improvements and landscaping.

Question. The Senate parking lots are extended out to the sidewalk. Why was a setback from the sidewalk of approximately 8 feet designed into the new landscaping of this lot, and what does that setback amount to in lost parking spaces?

Response. The setback referred to is not included in the property acquired for use by the Supreme Court. It is part of the District of Columbia right-of-way, and as such, cannot be used for parking spaces. The parking lot configuration was designed in conjunction with both the Supreme Court and the local residents, who expressed considerable concern that the existing aesthetic fabric of the community not be diminished. The design satisfies both the Court's need for parking spaces and causes minimal visual disruption to the community.

CONGRESSIONAL WITNESSES

STATEMENT OF HON. DANTE B. FASCELL, A REPRESENTATIVE FROM FLORIDA, CHAIRMAN, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

ACCOMPANIED BY:

R. SPENCER OLIVER, STAFF DIRECTOR
DEBORAH M. BURNS, BUDGET OFFICER

INTRODUCTION OF REPRESENTATIVE FASCELL

Senator LAXALT. Congressman, are you prepared to move forward? Bob Dole, I am told, is tied up on another hearing. You are busy, Congressman. Welcome to the committee. Nice to see you.

Mr. FASCELL. Thank you Senator.

Senator, I am Dante Fascell from Florida.

Senator LAXALT. Why don't we go ahead and hear you out, and we will turn you lose, because I know you have other things to do, and later, as Senator Dole is available, he can come in, but it is up to you entirely. If you would like to hear his presentation——

Mr. FASCELL. Well, I must say, I have read it with some chagrin, but I am prepared to deal with it.

Senator LAXALT. How would you like to deal with it?

Mr. FASCELL. I need to testify, because I need to get back to the House floor, because our committee has a nuclear debate up all day.

Senator LAXALT. You are on nuclear all day?

Mr. FASCELL. Yes, sir.

Senator LAXALT. OK.

Mr. FASCELL. Otherwise, I say, I would come back whenever you say, but I think we ought to get the formality of it over with.

Senator LAXALT. All right. Let's do that.

BUDGET REQUEST

Our next request is for the Commission on Security and Cooperation in Europe. The Commission was created to review the compliance of the Helsinki Accords. Fiscally, in 1984, the Commission is requesting $550,000 which will provide an operating budget of $666,000 when added to its unobligated balances.

Appearing on behalf of the request is the Chairman, Congressman Dante B. Fascell, accompanied by the ranking member of the Senate delegation, Senator Robert Dole who, we hope, will be here later. Welcome, all of you.

Mr. FASCELL. Thank you very much.

Senator LAXALT. We welcome you.

PREPARED STATEMENTS

Mr. FASCELL. Mr. Chairman, the people accompanying me are Mr. Spencer Oliver and the Budget Officer, Deborah M. Burns. I have a prepared statement and also the prepared statement of Senator Dole which I would like to submit for the record, if I may, and then proceed extemporaneously.

[The statements follow:]

PREPARED STATEMENT OF DANTE B. FASCELL

CHAIRMAN

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Mr. Chairman and Members of the Subcommittee:

I am appearing before you today in my capacity as Chairman of the Commission on Security and Cooperation in Europe to discuss the requested appropriations for Commission activities during Fiscal Year 1984.

Public Law 94-304 created the Commission and authorized an appropriation of $350,000 for each fiscal year to remain available until expended. The Foreign Relations Act of 1979 (Public Law 95-426) amended the enacting legislation to increase the amount appropriated to $550,000. Our budget request for Fiscal Year 1984 is $550,000 for an operating budget of $666,000.

Background of the Commission

The Commission is an independent agency of the United States Government made up of six Members of the House of Representatives, six Members from the Senate, and three representatives of the Executive Branch appointed by the President, one each from the Departments of State, Commerce and Defense, for a total of fifteen "Commissioners."

Mandated to review compliance with the provisions of the Helsinki Final Act -- which was signed by President Ford in August of 1975 along with 34 other countries -- the Commission on Security and Cooperation in Europe, commonly known as the "Helsinki Commission," was formed on June 3, 1976 with an obligation to monitor compliance of all the signatories, including the United States', in the areas of human rights, religious liberty, reunification of families, treatment of minority groups, cooperation in the field of cultural and educational exchange and cooperation in trade and economic matters. Also covered is the exchange of scientific and technological information, provisions for the notification of military maneuvers and invitation of observers to military maneuvers.

The Madrid Meeting

As we discussed during last year's appropriations hearing, one of the mandates of the Helsinki Final Act calls for periodic follow-up review conferences. The first review conference began on October 4, 1977 in Belgrade, Yugoslavia, and lasted until March 9, 1978. The second review conference, which is being held in Madrid Spain, began with a preparatory conference in September 1980 with the meeting officially opening on November 11, 1980. The Madrid Meeting has continued since that time and has still not concluded its work, partly due to the crisis in Poland as well as continued and mounting Soviet violations of the Helsinki Final Act. More information on the Madrid Meeting and its progress is contained in the interim reports and the Commission's Annual Report to Congress for 1982 submitted to your Committee and is available to whomever may be interested.

Preparation for, and participation in, the Madrid Meeting, requires a significant portion of the Commission's time and resources. For example, Members of Congress who serve on the Commission are also members of the U.S. delegation to Madrid. Many members of Congress and representatives of their staffs have been to Madrid and have participated in the different working groups and have been briefed by the Commission staff on past, present and future negotiations. Commission staff members serve in many important positions on the U.S. delegation including the Staff Director who is the Deputy Chairmen of the U.S. delegation, second in commahd after Amb. Kampelman. Most of the staff have participated in the work of the conference at one time or another and have contributed significantly toward achievement of U.S. objectives in the various working groups. In addition, the Commission serves as Congressional liaison for the delegation and has been the delegation's principal point of liaison for the many private U.S. organizations having a strong interest in the CSCE process.

The U.S. delegation is a totally unified team consisting of Commission members and staff as well as State Department and other Executive Branch personnel. The composition of the delegation reflects the diversity of interests involved and the importance different groups attached to the Madrid Meeting play. As this is the second in a series of review meetings of the type envisioned by the Final Act, it is a significant step in continuing the CSCE process. Its goals are to strengthen that process by conducting a thorough exchange of views on implementation of the Final Act by trying to agree on a balanced mix of new proposals in all areas of the Final Act and by agreeing on the date and place of another similar review meeting.

The various areas of the Final Act being discussed at Madrid are broken down into "working groups." In two of the five working groups, Mediterranean Cooperation and Follow-Up, Commission staff members were in charge, with back-up provided both by Commission staff and State Department officers. The Commission staff also played an active and visible role in the other four working groups, especially in the Basket III group on Cooperation in Humanitarian and related fields, where it supplied all the support staff. The Commission staff was also in charge of the review of Principle VII, the human rights principle, in Basket I. The Commission's work in the delegation fell largely into the following categories:

(a) Committee Work: Prepare and deliver speeches; write replies and answer questions or criticisms by the press, our allies or Eastern Governments; chair meetings, write daily and weekly summary cables to Washington; maintain close contact with all delegates; attend and participate in NATO caucuses; plan tactics and strategies; and draft new proposals.

(b) Plenary Work: Advise and prepare general and specific strategies; write speeches; assist the head of delegation and participate in negotiating groups.

(c) Special Projects: Draft briefing papers, summaries, cables, newspaper articles, analyses, resolutions, talking points and answer correspondence.

(d) Press Relations: Maintain close and continuous contact with members of the press at all stages of the meeting. Commission press officer assists in press briefings and prepares press releases for the U.S. delegation and writes press articles about the Madrid Meeting.

(e) Congressional and Public Visitors: Commission has full responsibility for briefing and scheduling any Members of Congress and representatives of private organizations who visit Madrid during the meeting. During the sessions, Commission staff members help visiting private citizens and representatives of non-governmental organizations keep abreast of developments at the meeting and make available copies of speeches and other public material related to the meeting.

(f) Administrative: Provides a significant part of the administrative and secretarial support for the delegation throughout the conference.

Following the Madrid Meeting, the Commission intends to initiate a series of reports, hearings, consultations and discussions on the results and significance of the Madrid review. The first of these will be a detailed report and appraisal of the Madrid Follow-up meeting to be released shortly after the conclusion of the meeting. In the meantime, the staff has prepared a series of interim reports on various phases of the meeting.

Commission Staff -- Background and Responsibilities

As in previous years, the Commission is authorized 14 permanent fulltime positions. At present, all available positions on the Commission are filled. These consist of 11 professional staff (10 full time and one part time) and 4 clerical/administrative and part time positions (3 full time and one part time). The two part time positions constitute one permanent slot.

Following are background information and job responsibilities for members of the staff. In addition to the 14 appropriated positions, the Commission is authorized to hire summer interns and one part-time student to help during the school year, particularly helpful when meetings such as Madrid are in session.

R. Spencer Oliver
Staff Director and General Counsel

Born on November 1, 1937, received his A.B. from Texas Christian University in government and politics and his J.D. at George Washington University in 1976. Member of the D.C. Bar.

Has been serving as Staff Director and General Counsel of the Commission since its beginning in late 1976. Served as Chief Counsel of the U.S. delegation to the Belgrade Review Meeting 1977-78 and was Co-Chairman of the CSCE Experts Meeting on Peaceful Settlement of Disputes held in Montreux, Switzerland in 1979. Currently acting as Deputy Chairman of the U.S. delegation to the second CSCE review conference being held in Madrid, Spain. As Staff Director, he is the central contact with Commissioners and high-level personnel at Department of State and other Government agencies. Responsible for office policy and overall staff direction, provides guidance in carrying out projects and issuing reports and coordination of all Commission activities.

Michael J. Packard
Deputy Staff Director

Graduated from the U.S. Naval Academy with a B.S. in naval science and military history and received a Master's Degree in history from Duke University. He is a Lieutenant-Commander in naval reserve intelligence. While on active duty served in destroyers in Vietnam, as naval liaison to the 12th Marine Artillery Regiment in the Pacific, and as Deputy Public Affairs Officer for the 9th Naval District (Midwest).

Joined the staff of Senator Robert Dole, Commission Co-chairman, as legislative assistant for foreign affairs and defense issues, later becoming senior legislative assistant. Responsibilities included the Senator's activities on SALT II, the Law of the Sea and human rights, and he attended negotiations in Geneva and Vienna.

Duties include assisting in direction of staff with overall responsibility for military security questions (CBMs, CDE) and liaison with Defense Department. Started with the Commission in September of 1981.

Samuel G. Wise
Deputy Staff Director

Came to the Commission in October of 1977 on loan from the Department of State. A Foreign Service Political Officer, he has served in the Soviet Union, Czechoslovakia and Italy and was Deputy Director for East-West exchanges at State prior to his assignment with the Commission. Participated in the Belgrade, Montreux, Valletta and Madrid CSCE meetings. Retired from the Foreign Service in December of 1981 and was rehired by the Commission on January 1, 1982. His main responsibilities are assisting in staff direction and coordination with private groups and government agencies with regard to U.S. compliance with the Helsinki Accords. Currently back-up for Madrid delegation with responsibility for Mediterranean issues and the Preamble. Overall Liaison with State Department.

He is a graduate of the University of Virginia and Columbia University where he attended the Russian Institute and received a Masters of International Affairs degree. He has language fluency in Russian, French and Italian and rudimentary knowledge of Czech.

Staff Assistants

Catherine Cosman -- Received her B.A. from Grinnell College in 1967 and an M.A. in Slavic languages and literature from Brown University in 1969. Fulbright Fellow, East European Institute, Free University of Berlin 1973-74; IREX Fellow, Institute of Cinematography, Moscow 1974-75. Country responsibility includes religious liberty in the USSR and all matters dealing with the Baltic States and the GDR. Overall responsibility for dissent in East Europe and USSR. Fluent in Russian and German, translates, edits and compiles human rights documents from the USSR. Has been with the Commission since its origin in late 1976.

Lynne Davidson -- B.S. from Georgetown School of Foreign Service in 1975 and is working toward a M.A. in Russian Area Studies. Was a participant twice in the Council on International Educational Exchange's language program at Leningrad State University. Speaks Russian and Spanish and has had extensive experience translating scientific and other texts from Russian into English, particularly during the Madrid Conference where she translated the written texts of the Soviet speeches dealing with security and disarmament in Europe. Serves as case officer for Romania and follows human rights developments in Poland for the Commission. Liaison with U.S. Immigration and Naturalization Service. With regard to domestic compliance, she follows issues concerning political prisoners and American Indians. Started with the Commission May of 1977.

Orest Deychakiwsky -- Started with the Commission in November of 1981, is in charge of all emigration casework and trains and supervises part time and summer interns. Fluent in Ukrainian, keeps track of developments in that area and is a contributing editor to Smoloskyp, a Ukrainian human rights quarterly. Received his M.A. from Georgetown in Internationl Relations and his B.A. from Notre Dame.

Meg Donovan -- Has also been with the Commission since the beginning, is the Commission's chief liaison with NGO's and is coordinator with Congressional offices on human rights issues. Overall responsibility for Basket III (human contacts and family reunification questions) and emigration questions dealing with the USSR. With reference to domestic compliance, follows the International Covenants on Human Rights and the status of women in the U.S. Attended Emmanuel College in Boston and was the Administrative Assistant for the National Conference on Soviet Jewry 1975-76.

John Finerty -- Received his B.A. from the University of Tennessee and his M.A. from S.U.N.Y in Russian Studies. Fluent in Russian. Started with the Commission in November of 1981, has main responsibility for Russian translations; assists in preparation of USSR human rights documents and reports; and maintains files on USSR.

Martin Sletzinger -- Has a Ph.D in Soviet and East European studies and a M.A. in Soviet Studies from Harvard University. Is a highly qualified political analyst of the USSR and Eastern Europe. Fluent in Russian and Serbo-Croation, he was a Fulbright Fellow in Belgrade 1972-73. Joined the Commission staff in 1976 and he has primary responsibility for CSCE follow-up, military security and is an expert on CSCE procedures. Served on the delegations of the Belgrade and Madrid Meetings, and the Montreux and Valletta Experts Meetings. He monitors Bulgarian, Czechoslovak and Yugoslav compliance with the Final Act and follows Charter 77 developments in Czechoslovakia with overall responsibility for Soviet/East European research. Follows instances of alleged violation of the Helsinki Accords in non-Communist states (i.e. FRG, Turkey and the United Kingdom).

Part Time Employees

Yale Richmond -- A retired Foreign Service Information Officer, came to the Commission in March of 1980 as a part time Senior Staff Consultant. Deals with issues concerning cultural, educational and scientific exchanges and information. Received a B.S. in 1943 from Boston College and a M.A. from Columbia University in 1957. In the interim, he attended Syracuse University where he earned a Bachelor of Electrical Engineering in 1947. Before joining the Commission he was Deputy

Assistant Director for Europe at the U.S. International Communication Agency. His prior assignments at the State Department include Director, Office of Soviet and Eastern European Programs and Director, Office of International Visitor Programs, both in the Bureau of Educational and Cultural Affairs.

Leslie Farrell -- Has been with the Commission since January of 1980. Clips and files newspaper and magazine articles about CSCE from daily and weekly publications.

Administrative/Clerical Staff

Barbara Edwards -- Administrative Assistant. Updates mailing and family reunification case lists which are on the word processing machine. Imprest fund officer and Commission hearing coordinator dealing with HIS and GPO. Handles travel arrangements for staff -- both domestic and international -- and assists in typing of reports. Has an Associate of Arts degree in court reporting. Has been with the Commission since October of 1979.

Deborah Burns -- Office Manager. Prepares annual budget request and keeps books on all expenditures for the Fiscal Year. Coordinates with GAO, other government offices and is Congressional liaison for all matters dealing with appropriations and expenditures for the Commission. Oversees clerical work and all work done on word processor. Prepares all paperwork for new employees and prepares vouchers and purchase orders for all office equipment and services. Has been with the Commission since July of 1978.

Employees on Loan from Other Government Agencies

Herbert Moller -- Foreign Service Consular Officer from State Department. Is working on immigration and emigration policies of the Helsinki signatory countries, including the United States, for a future Commission report. Started with the Commission in November 1981.

John Sandstrom -- Press and Information Officer for the Commission on loan from the International Communication Agency since November 1981. In addition to editing press releases, liaison with Washington press personnel and preparing Commission press conferences and briefings, and edits the bimonthly CSCE Digest.

Casework

One of the major functions of the Commission staff is their work on the human rights and human contacts portion of the Final Act. The number of political prisoners, family reunification and emigration cases is steadily increasing, more so since the Madrid Review Meeting has been in session. At present, the number of such cases in our files is about 5,000 -- most of which come from the Soviet Union, followed by Romania, Czechoslovakia and Poland. Some of these cases are submitted to us through Members of Congress, although most come from family members and a few are sent to the Commission by outside organizations who have heard of the good work performed here. We keep updated, detailed information on people who are trying to be reunited with their families -- some of whom have been waiting years and have been refused exit visas 10 times or more. What we try to do is determine whether or not, for example, the U.S. Government has made an effort in the matter and we always try to follow up the case with the government concerned because, basically, it is a government-to-government process. We also advise Members of Congress and some committees on human rights cases and issues. The Commission's services are available to serve the needs of the Congress and their constituents. All these cases are contained in the word processor and are accessed by a program which was designed by the House Information System.

Travel

With so much of the Commission's time being taken up by the meeting in Madrid, it is expected that domestic travel by members of the staff will be slightly less than normal until the meeting either ends or recesses to some future date. Many Commissioners and staff members are asked to speak before various ethnic organizations and other interested groups which request the presence of the Commission at their functions for briefings and updates on Madrid and other CSCE matters of importance to them. Should a Commissioner not be available to travel because of the constraints on his time, the Staff Director or another staff member will try to fill in. It is expected that, at the conclusion of the Madrid Meeting -- successful or otherwise -- the Commission's presence will be requested from the many Jewish organizations and other interested ethnic groups for discussions of the effects of the meeting and the future of the CSCE process.

Most of the Commission's travel, however, is international with attendance at bilateral and multilateral negotiations. We are authorized the use of Congressional travel funds, as authorized under Public Law 94-534, to cover travel and per diem expenses.

Hearings and Other Commission Reports

The Fiscal '84 budget envisages a substantial expenditure for printing and reproduction of Commission documents, including the Activities Report compiled at the end of every Congress which summarizes the work of the staff and the accomplishments during that period. This Activities Report is furnished to members of both the House and the Senate. For information requests, the Commission also has a basic information brochure which will be updated at the end of the Madrid Review Conference. Our Digest, which goes out twice a month to about 600 interested organizations and individuals, we have found to be a worthwhile and immensely useful tool not only for our record-keeping and updating of events but also for those who do not normally have access to the various publications which it summarizes.

In addition, we have the normal printing expenses of such reports as hearing records dealing with CSCE-related topics -- particularly East European and Soviet compliance with the human rights provisions of the Final Act -- and reports of Helsinki Monitors and translations of documents submitted by various monitoring groups and other organizations.

The Commission held only three hearings last year because of the prolonged meeting in Madrid. The first hearing was a review of Phase IV of the Madrid and has as its main witness the U.S. Ambassador to the talks, the Honorable Max M. Kampelman. On April 1, the Commission held another hearing with former Polish Ambassador to Japan, Zdzislaw Rurarz, this one on the likelihood of Soviet involvement in the Polish economy. The last hearing, September 23, was held to investigate Soviet complicity in the attempted assassination of Pope John Paul II.

Next fiscal year, we plan to hold a number of hearings on such topics as human rights abuses in the Soviet Union and Eastern Europe, the suppression of religion in the Soviet Union, the Madrid Meeting and the future of the CSCE process.

Miscellaneous Activities

The Commission staff regularly responds to Congressional inquiries regarding the work of the Commission, the CSCE process, issues affecting East-West relations, human rights in Eastern Europe, and to requests for information on the status of individual cases from Congressional offices. In addition to supplying this information, the staff suggests action a Member might take, provides materials for the preparation of speeches and statements in the Congressional Record and drafts letters or statements for the Member's use. If the staff is unable to furnish the necessary information, it will refer the Member's office to the appropriate private organization or government agency. The Commission also functions as a clearinghouse for information about Congressional activities in the human rights area and other Helsinki-related issues. Often, Congressional staff members contact the Commission to inquire about what other Congressional offices have been active in a particular case and what actions the Commission has taken on the case. Many offices routinely send the Commission copies of letters they have sent or statements they have made regarding individual cases, so that the Commission will be kept abreast of these efforts and be better able to inform other offices.

The Commission supplies background material for Members of Congress participating in international meetings at which Helsinki-related issues are to be discussed or traveling to Eastern Europe or the Soviet Union. The Commission also assists in the drafting and supporting of a variety of Congressional resolutions.

PREPARED STATEMENT OF HON. ROBERT DOLE

U.S. SENATOR FROM KANSAS

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

LET ME EXPRESS MY REGRET THAT I WAS UNABLE TO APPEAR IN PERSON BEFORE THE SUBCOMMITTEE. AT THE TIME OF THE HEARING I WAS RECEIVING TESTIMONY FROM THE SECRETARY OF STATE IN MY CAPACITY AS CHAIRMAN OF THE FINANCE COMMITTEE, ON THE CARIBBEAN BASIN INITIATIVE, AN ISSUE I BELIEVE CONGRESSMAN FASCELL ALSO HAS AN INTEREST IN, AND I WAS UNABLE TO BREAK AWAY IN TIME FOR THIS HEARING.

THE CHAIRMAN OF THE HELSINKI COMMISSION HAS MADE A GOOD POINT IN MY ABSENCE, ONE THAT BUTTRESSES MY POSITION HOWEVER. MANY TIMES CSCE MEETINGS DO NOT GET GOOD ATTENDANCE FROM SENATE COMMISSIONERS, ALTHOUGH ON THE WHOLE - WITH THE EXCEPTION OF THE CHAIRMAN HIMSELF, WHO SCHEDULES THE HEARINGS - I BELIEVE MANY OF THE SENATE MEMBERS HAVE AS GOOD A RECORD AS HOUSE MEMBERS.

MAYBE IF WE CHANGED THE STRUCTURE OF THE COMMISSION, OR ALLOWED THE CHAIRMANSHIP TO ROTATE BETWEEN HOUSE AND SENATE, WE COULD HAVE MORE INPUT INTO WHEN AND WHERE THE HEARINGS ARE GOING TO TAKE PLACE, NOT TO MENTION A SAY IN WHAT KIND OF HEARINGS WE SHOULD HAVE, AND I MEAN CONTENT, SETTING OF PRIORITIES AND A GENUINE SHARING OF GOALS AND FULL CONSULTATION, WHICH WE DO NOT HAVE NOW. THEN PERHAPS WE WOULD SEE A BETTER PARTICIPATION RATE.

THE ARRANGEMENTS FOR THIS SUBCOMMITTEE HEARING ARE A CASE IN POINT. THE STAFF HERE IN GOOD FAITH COORDINATED WITH THE HELSINKI COMMISSION. A DATE FOR THE HEARING WAS AGREED UPON. BUT IT WAS NOT UNTIL LATE LAST WEEK THAT MY STAFF AND I WERE INFORMED OF THE TIMING. THERE WAS NO CONSULTATION IN ADVANCE, NO CONFERRING BETWEEN STAFF MEMBERS, NO OPTIONS OFFERED - WE WERE SIMPLY INFORMED WHEN AND WHERE WE SHOULD SHOW UP IF WE CARED TO ATTEND.

A BETTER WAY

AS I HAVE SAID BEFORE, THE SENATOR FROM KANSAS HAS NO REAL QUARREL WITH CONGRESSMAN FASCELL. PERHAPS HE IS RUNNING THE COMMISSION THE SAME WAY I WOULD IF IT WERE MY COMMISSION, BUT WE WILL NEVER KNOW UNLESS WE CHANGE THE SYSTEM, TRY TO FIND A BETTER WAY OF DOING BUSINESS AND ADDRESS SOME OF THE PROBLEMS THAT CHAIRMAN FASCELL ADMITS NOW EXIST.

AS CO-CHAIRMAN OF THE COMMISSION ON SECURITY AND COOPERATION IN EUROPE, I WOULD LIKE TO EXPRESS MY GENERAL SUPPORT FOR THE ACHIEVEMENTS OF THE COMMISSION AND ITS STAFF. IT IS BECAUSE I REMAIN CONCERNED THAT THE IMPORTANT WORK OF THE HELSINKI COMMISSION SHOULD CONTINUE IN A TIME OF GREAT BUDGET DIFFICULTIES IN THIS COUNTRY, AS WE IN THE CONGRESS SEARCH FOR THE BEST AND MOST EFFICIENT WAY TO RUN THE GOVERNMENT AND GET A GRIP ON THE FEDERAL DEFICIT IN EVERY WAY WE CAN, THAT I HAVE TAKEN A FRESH LOOK AT THE COMMISSION. MY RECOMMENDATION TO YOU IS NOT TO FUND THE HELSINKI COMMISSION FOR NEXT YEAR, UNLESS WE CAN MAKE THE CSCE A TRUE JOINT ENDEAVOR.

I HAVE BEEN A MEMBER OF THE COMMISSION NEARLY SINCE ITS INCEPTION IN 1976, SERVING NOMINALLY AS CO-CHAIRMAN FROM JANUARY OF 1981, AND HAVE HAD AMPLE OPPORTUNITY TO SEE HOW IT IS RUN. IN POINT OF FACT IT WAS SET UP BY THE HOUSE OF REPRESENTATIVES SO THAT THE CHAIRMAN OF THE COMMISSION WOULD ALWAYS BE A HOUSE MEMBER OF THE MAJORITY PARTY THERE, AND IT IS RUN LIKE A HOUSE COMMITTEE OR SUBCOMMITTEE WITH LITTLE OR NO OPPORTUNITY FOR INPUT IN POLICY DIRECTION OR MANAGEMENT BY THE HALF OF THE COMMISSION FROM THE SENATE. THE PRACTICE OF OTHER JOINT COMMITTEES OF THE HOUSE AND SENATE, SUCH AS THE JOINT ECONOMIC COMMITTEE, THE JOINT COMMITTEE ON TAXATION, THE JOINT COMMITTEE ON THE LIBRARY OF CONGRESS AND THE JOINT COMMITTEE ON PRINTING, IS TO ROTATE THE CHAIRMANSHIP BETWEEN THE TWO BODIES. I SERVE ON THE JOINT TAX COMMITTEE AND THAT IS THE WAY THEY OPERATE WHILE PURSUING BIPARTISAN GOALS. IN THE PAST SENATOR PELL AND OTHERS HAVE ASKED ABOUT INSTITUTING THIS

PRACTICE ON THE HELSINKI COMMISSION, AND I WOULD BE WILLING TO TRY IT, BUT THE HOUSE SIDE HAS NOT YET BEEN WILLING TO ACCOMMODATE THE SENATE IN THIS MANNER. UNDER THE PRESENT ARRANGEMENT, DESPITE THE BIPARTISAN GOALS OF THE COMMISSION, THERE HAS BEEN LITTLE CONSULTATION AND NO SHARING OF POLICY DECISIONS, WHICH IS FINE IF THIS IS GOING TO BE A HOUSE COMMITTEE, BUT NOT APPROPRIATE FOR A JOINT COMMISSION. DANTE FASCELL IS A DISTINGUISHED COLLEAGUE AND FRIEND OF MINE WHO HAS BEEN AN ABLE CHAIRMAN, THE FIRST AND ONLY CHAIRMAN THE COMMISSION HAS HAD IN SEVEN YEARS, AND HE HAS DONE A FINE JOB LEADING THE COMMISSION IN THE DIRECTION HE SET FOR IT ALL THOSE YEARS. HE IS ALSO A SENIOR MEMBER, NUMBER TWO I BELIEVE, OF THE FOREIGN AFFAIRS COMMITTEE. IN THIS PERIOD OF LOOMING BUDGET SHORTFALLS OF IMMENSE PROPORTIONS, WHEN THOSE OF US IN THE CONGRESS ARE SEARCHING FOR WAYS TO ECONOMIZE AND CUT BACK ON UNNECESSARY GOVERNMENT SPENDING, IT SEEMS TO ME THAT IT MAKES GOOD SENSE TO HAVE THE FOREIGN AFFAIRS COMMITTEE OF THE HOUSE AND SENATE ASSUME MOST OF THE FUNCTIONS PRESENTLY SERVED BY THE HELSINKI COMMISSION.

JOINT CONTROL NOW A SHAM

I HAVE NO REAL QUARREL WITH CONGRESSMAN FASCELL. THIS IS HIS COMMISSION, THAT'S THE WAY IT WAS SET UP AND THAT'S THE WAY HE RUNS IT. BUT IT JUST SEEMS TO ME THAT IF THE SENATORS ON THE COMMISSION ARE NOT GOING TO HAVE ANY REAL INPUT THEN IT'S A SHAM TO CLAIM THAT THE HELSINKI COMMISSION IS A JOINT HOUSE-SENATE CONCERN OR THAT THE CO-CHAIRMAN'S POSITION MEANS ANYTHING MORE THAN A SIGNATURE ON OFFICIAL LETTERS BESIDE THE CHAIRMAN'S.

THIS IS NOT A PARTISAN ISSUE. REPUBLICANS MAY NO LONGER HAVE THE MAJORITY AFTER THE NEXT SENATE ELECTIONS, BUT THE SENATE CO-CHAIRMAN, REGARDLESS OF PARTY, OUGHT TO HAVE MORE THAN A TITLE AND A FIGUREHEAD POSITION.

A MAJOR CONCERN OF US ON THE SENATE SIDE IS OUR ACCESSIBILITY TO, AND THE QUALITY OF OUR RELATIONSHIP WITH, THE MANY PRIVATE GROUPS INVOLVED IN HELSINKI-RELATED ISSUES. I BELIEVE THIS CHANGE WOULD BE BETTER FOR THEM, GIVE THEM CLOSER AND MORE MEANINGFUL CONTACT WITH THE SENATE COMMISSIONERS, IF THE CHAIRMANSHIP WERE ROTATED

BETWEEN HOUSE AND SENATE. OUR PAST ATTEMPTS AT COMPROMISE HAVE NOT WORKED OUT, HOWEVER, AND IF THE HOUSE PERSISTS IN THIS MANNER THEY MIGHT JUST AS WELL TAKE FORMAL CONTROL OF THE COMMISSION, SINCE THEY HAVE IT AS IT STANDS NOW.

FUNCTIONS MAINTAINED

NONE OF THE MISSIONS WITH WHICH THE CONGRESS FIRST CHARGED THE COMMISSION NEED BE LOST. ACCORDING TO PUBLIC LAW 94-304, SECTION 2, "THE COMMISSION IS AUTHORIZED AND DIRECTED TO MONITOR THE ACTS OF THE SIGNATORIES WHICH REFLECT COMPLIANCE WITH OR VIOLATION OF THE ARTICLES" OF THE HELSINKI FINAL ACT, AND "TO MONITOR AND ENCOURAGE THE DEVELOPMENT OF PROGRAMS AND ACTIVITIES OF THE UNITED STATES GOVERNMENT AND PRIVATE ORGANIZATIONS WITH A VIEW TOWARD TAKING ADVANTAGE OF THE PROVISIONS OF THE FINAL ACT TO EXPAND EAST-WEST ECONOMIC COOPERATION AND A GREATER EXCHANGE OF PEOPLE AND IDEAS BETWEEN EAST AND WEST." NONE OF THESE MISSIONS CANNOT BE JUST AS WELL ACCOMPLISHED UNDER THE LEADERSHIP OF THE HOUSE FOREIGN AFFAIRS AND SENATE FOREIGN RELATIONS COMMITTEES. IT HAS BEEN A CONVENIENCE TO SOME, ESPECIALLY A FEW OF THE MANY PRIVATE AMERICAN ORGANIZATIONS CONCERNED WITH HUMAN RIGHTS AND MINORITY AFFAIRS, TO HAVE THE COMMISSION AS A SINGLE FOCAL POINT THROUGH WHICH THEY CAN DIRECT THEIR CONCERNS TO THE CONGRESS. HOWEVER IT IS MY BELIEF THEY CAN DO JUST AS WELL BY COMING TO THE TWO SUBCOMMITTEES - AND THE HOUSE ALREADY HAS ESTABLISHED A SUBCOMMITTEE ON HUMAN RIGHTS. PERHAPS THEY ACTUALLY WILL DO BETTER BY ENGAGING THE DIRECT ATTENTION OF THE CONGRESS AND PARTICULARLY THE SENATE ON THESE ISSUES WITHIN THE FULLER CONTEXT OF FOREIGN RELATIONS THAT THE COMMITTEES ENTAIL. AT THE SAME TIME, THE SPECIAL ATTENTION THAT HELSINKI-RELATED ISSUES NOW RECEIVE NEED NOT BE LOST IF, AS I BELIEVE THEY WILL, THE CHAIRMEN OF THE HOUSE AND SENATE COMMITTEES AGREE TO ACCEPT THIS ADDED RESPONSIBILITY ALONG WITH THE CONTINUED PARTICIPATION OF SOME OF OUR PRESENT COMMISSIONERS. CHAIRMAN FASCELL IS, AS I HAVE NOTED, NEXT IN LINE TO THE CHAIRMAN OF THE HOUSE COMMITTEE AND COMMISSIONER PELL IS THE RANKING MINORITY MEMBER OF THE SENATE COMMITTEE AND BOTH, I FEEL SURE, WOULD DO MUCH TO SEE THAT THE PRESENT EMPHASIS ON HELSINKI IS MAINTAINED UNDER THE NEW SYSTEM.

IT IS MY INTENT TO INTRODUCE LEGISLATION IN THIS CONGRESS THAT WOULD ABOLISH THE COMMISSION AND PROVIDE FOR A SMOOTH TRANSFER OF ITS FUNCTIONS, AS WELL AS SOME STAFF POSITIONS AND ALL FILES, TO EACH OF THE TWO COMMITTEES. SECTION 5 OF THE ACT ESTABLISHING THE COMMISSION REQUIRES THE PRESIDENT TO SUBMIT A SEMIANNUAL REPORT ON COMPLIANCE AND IMPLEMENTATION OF THE FINAL ACT TO THE CONGRESS. THIS REQUIREMENT WOULD BE MAINTAINED.

CONSIDERABLE SAVINGS

ALTHOUGH THE COMMISSION BUDGET IS SMALL IN COMPARISON WITH SOME OTHER INDEPENDENT AGENCIES IT IS COMPARABLE TO OTHER CONGRESSIONAL STAFFS, AND A SIGNIFICANT SAVINGS CAN BE ACHIEVED THROUGH THE MERGER I HAVE OUTLINED. THERE WOULD FIRST OF ALL BE A SAVINGS IN THE ELIMINATION OF MANY SERVICES AND ADMINISTRATIVE SUPPORT COSTS THAT WOULD BE OTHERWISE DUPLICATED. THERE WOULD BE A SAVINGS IN STAFF SALARIES WHICH NOW COMPRISES THE BULK OF THE CSCE BUDGET, AS PROJECTS WHICH TAKE UP MUCH STAFF TIME NOW ARE ELIMINATED. THIS IS PARTICULARLY TRUE OF THE STAFF PARTICIPATION IN INTERNATIONAL CONFERENCES SUCH AS THE ON-GOING MADRID REVIEW MEETING, WHERE THEY OCCUPY POSITIONS AND PERFORM DUTIES THAT FALL MORE PROPERLY WITHIN THE REALM OF THE STATE DEPARTMENT. THE PRESENT MADRID CONFERENCE HAS UTILIZED UP TO 50% OF THE TIME OF NEARLY HALF THE STAFF FOR OVER TWO YEARS NOW, PERFORMING DUTIES FOR THE U.S. DELEGATION THAT OUGHT TO BE SUPPLIED BY THE STATE DEPARTMENT, INCLUDING TRANSLATING, SPEECH-WRITING, PERSONAL ASSISTANT TO THE AMBASSADOR, STAFF DIRECTOR, PRESS RELATIONS, NOTE-TAKING AND REPORTING, CLERICAL AND SECRETARIAL AND OTHER DUTIES NORMALLY PERFORMED BY FOREIGN SERVICE OFFICERS AND STAFF.

TRAVEL EXPENSES

THE THIRD MAJOR REDUCTION IN EXPENSES WOULD OCCUR IN FOREIGN TRAVEL BY STAFF, AN ITEM THAT DOES NOT APPEAR IN THE BUDGET REQUEST BEFORE YOU SINCE IT IS DISBURSED FROM A SEPARATE FUND PROVIDED FOR ALL CONGRESSIONAL TRAVEL, BUT WHICH HAS BEEN A MUCH-ABUSED DRAIN ON GOVERNMENT FUNDS.

A GREAT DEAL OF THIS TRAVEL HAS BEEN ASSOCIATED WITH TRAVEL TO AND FROM MADRID, AT A MUCH HIGHER FREQUENCY THAN WOULD BE THE CASE IF

THE STAFF WERE NOT SUCH AN INTEGRAL PART OF THE U.S. DELEGATION, YET STILL REQUIRED TO RESPOND TO DOMESTIC CONSTITUENT CONCERNS, WHICH CAUSES A GREAT MANY TRIPS BACK AND FORTH ACROSS THE OCEAN.

IN 1980 CONGRESSIONAL QUARTERLY REPORTED THAT OF 27 CONGRESSIONAL COMMITTEES THE CSCE RANKED FOURTH IN AMOUNT SPENT FOR FOREIGN TRAVEL AND EXPENSES AT $154,648.33. IN 1981 THE CONGRESSIONAL RESEARCH SERVICE REPORTED THAT OF 22 HOUSE COMMITTEES, CSCE WAS EIGHTH IN TRAVEL, AT $135,104.75. THESE EXPENSES ARE ADDITIONAL TO THE BUDGET REQUEST THAT IS SUBMITTED TO THE APPROPRIATIONS COMMITTEES.

PROJECTED SAVINGS TO U.S.

BY MERGING THE COMMISSION, ITS STAFF AND ITS MISSION WITH THE PRESENTLY CONSTITUTED FOREIGN AFFAIRS AND FOREIGN RELATIONS COMMITTEES, I PROJECT ADMINISTRATIVE AND SUPPORT SAVINGS AMOUNTING TO 80% OF PRESENT BUDGET; ELIMINATION OF 7-8 OF 14 STAFF POSITIONS, 2 OF WHICH ARE NOW VACANT AND 4 OF WHICH ARE ADMINISTRATIVE FOR A SAVINGS OF APPROXIMATELY 54% OF STAFF RELATED COSTS, AND A SAVINGS OF PERHAPS 80-95% IN THE OFF-BUDGET TRAVEL ITEMS. IF THESE PERCENTAGES ARE APPLIED TO THE FIGURES PROJECTED FOR FY 84 AND IF THE TRAVEL EXPENSES I CITED ARE USED, TOTAL SAVINGS AMOUNT TO APPROXIMATELY $566,320 PER ANNUM.

CONTINUED COMMITMENT TO HUMAN RIGHTS

THE WORLD WILL LITTLE NOTE NOR LONG REMEMBER THE U.S. HELSINKI COMMISSION EXCEPT AS A FOOTNOTE IN THE PAGES OF DIPLOMATIC HISTORY. WHAT HAS BEEN IMPORTANT IN OUR EFFORT TO ENCOURAGE THE OBSERVATION OF HUMAN RIGHTS HAS BEEN WHAT OUR GOVERNMENT HAS SAID AND DONE AND PLEDGED IN THE INTERNATIONAL ARENA, AND I INCLUDE THE CONGRESS AND THE ACTIONS OF THE CONGRESS IN THIS AREA WHEN I SPEAK OF THE U.S. GOVERNMENT. THE APPROACH OF THIS NATION TOWARDS THE HELSINKI FINAL ACT HAS HAD A REMARKABLE, BIPARTISAN FLAVOR UNDER THREE ADMINISTRATIONS SINCE PRESIDENT FORD AND PREMIER BREZHNEV SIGNED IT IN 1975. I BELIEVE OUR POLICIES AND ATTITUDES CAN CONTINUE IN THE FUTURE MUCH AS THEY HAVE BEEN IN THE PAST, IF THE PRESENT COMMISSION FUNCTIONS ARE SUBSUMED UNDER THE FOREIGN AFFAIRS COMMITTEES, WITH SOME OF THE DIPLOMATIC ACTIVITIES ASSUMED APPROPRIATELY BY THE STATE DEPARTMENT.

MADRID CONFERENCE

Mr. FASCELL. Very briefly, Mr. Chairman, your opening remarks detail the budget request exactly. We are asking for the same amount of money. The carryover is as a result of the fact that the Madrid Conference has lasted for 2½ years, which we helped staff to a considerable extent and which all members of the Commission are members of that delegation. We have been doing a lot of traveling back and forth, but it has curtailed our capability in terms of hearings and printings and what-not. So that accounts for the carryover over a period of time.

COMMISSION MEMBERS

Senator LAXALT. How many members do we have on the Commission?

Mr. FASCELL. Well, we have six and six. Senators Dole, Hatch, Heinz, D'Amato, Pell, and Leahy. Then on the House side, Representatives Fascell, Yates, Markey, Worth, Smith, and Ritter.

Senator LAXALT. How many meetings do you ordinarily have per year, either here or there?

Mr. FASCELL. We have had—well, the staff has been over in Madrid since, when, Spencer?

Mr. OLIVER. Since September 1980, part of the staff.

Mr. FASCELL. And what we do is rotate the staff over there.

Senator LAXALT. I see.

STAFF INTEGRATION WITH STATE DEPARTMENT

Mr. FASCELL. We have integrated our staff with the State Department Staff. That is one of the things that Senator Dole addresses in his comments, by the way. He thinks that the State Department ought to pick up the whole tab. We have fought very hard to be integrated into that and not simply because of a congressional kind of a prerogative, but because our constituent groups in this country, all of whom are strictly interested in this process, have felt that it was absolutely vital and essential, from their point of view, at least, that the Commission be totally integrated into the delegation, the U.S. delegation efforts at these conferences, the same kind of feeling we have about having Senators and Congressmen attend these meetings, because of the kind of input that they would give.

So that is the reason we have done that. Only, the State Department could pick up the whole tab. Only, they would be delighted as far as putting all of their people in the slots are concerned. Only, they would be delighted if the Congress did not give a hoot and no one ever showed up. They could run it any way they wanted to. They would not have all those flies buzzing around nicking them. So it is a judgment call. You know, "How do you want to run it?"

Well, we have decided over the years that the best way to do it is to hang in there and keep your feet to the fire, and it has worked out very well. The important thing is it has kept the heat off the Senate and the House, because our constituent groups are not buzzing at us. They might fuss at us, but they are not going to be fussing at you.

And it has worked out very well. Max Campbelman, the ambassador, is very happy with it. The State Department was reluctant at first, in the early years; man, we just had an awful time, but State now is kind of growing accustomed to seeing our faces around there and realizing that we really have expert staff people who are multilingual, can translate in the languages, and can speak and help and now how to negotiate and are familiar with every little tiny detail of that complicated document. So we carry our weight.

Senator LAXALT. Is it the thrust of Bob Dole's position that this staffing situation should be completely canceled from this standpoint and put in the State Department budget?

Mr. FASCELL. Yes; that is one of the objectives. Nevertheless, he raises the issue which is usually asked every year: "Is there any reason to have you guys around?"

Frankly, I am not looking for any more jobs, I can tell you. I have enough to do, but we have been through this struggle, now, for about 7 years. We started out answering that question, and we answered it every year.

Senator LAXALT. Have you chaired it for 7 years, now?

Mr. FASCELL. Yes; but that is by law. Bob fusses about that. We have had no change in the law. I am not going to suggest any right now, you know. [Laughter.]

Mr. FASCELL. But anyway, what we did to overcome that kind of thing—now, there was a reason for that, I might say, Mr. Chairman. It is a kind of a touchy thing, and I really wish Bob was here. We have been trying to get together for 6 months. I cannot ever get the guy.

But anyway, it is—we, when the legislation was originally written, it was written in mind with the fact that Senators just cannot make what they have got; it is just impossible. You have so many meetings and subcommittees and whatnot, so the concensus was at the time, well, we will just put that burden on the House. So they wrote that in the legislation, and that is the reason for a House chairman.

Now, when we got down to the practical day to day operations of it, OK, the Senator says, "What about me?" So I said, "OK, fine, we need a cochairman on the Commission," so we have a Senator who is a cochairman. But we did not legislate it, we just worked it out. We got a Senator cochairman, and we can exercise whatever he wants to do. Then the next question was, "Well, that is not good enough. You know, we want half the action."

Well, that was not the original concept. The original concept was a totally integrated staff, completely bipartisan approach; personnel selected strictly on their merits, you know, and this is a high caliber group of people, believe me.

PERSONNEL

Senator LAXALT. How many people do you have?

Mr. FASCELL. We have authorized 14 slots, I believe. Are they all filled?

Senator LAXALT. Is that overall? Some of these people, you say, are in Madrid?

Mr. OLIVER. 14 slots. We have two vacancies at the moment, Senator, one secretary and one economist who just resigned.

Senator LAXALT. Where are you based, on the Hill somewhere?

Mr. OLIVER. We are in House Annex Two, which is the old FBI building, which is the only space we could find to accommodate that many people.

Mr. FASCELL. Anyway, continuing that question, because in that statement, which I did not see until 2 minutes after I got here, which I really did not appreciate, but that is another story; we will work it out.

But anyway, to answer the question about cutting up the pie, we said, "OK." We entered, Bob Dole and I entered into an agreement. We designated Republican slots and Democratic slots.

Senator LAXALT. Has Bob been the sort of permanent cochairman since this?

Mr. FASCELL. Yes; since you guys took over and started running the Senate. [Laughter.]

Senator LAXALT. That was 45 years ago. [Laughter.]

Senator LAXALT. It feels like it.

Mr. FASCELL. Anyway, we entered into a written agreement on the personnel issue so there would be no misunderstanding.

If you like, I will submit it for the record, but I don't think you guys really want to get into that.

Senator LAXALT. I don't think so, either.

Mr. FASCELL. I will be glad to answer it, and I will be finished right now. Suffice it to say, we reached an agreement, we split the staff up. I didn't like the idea, frankly. I think it is a stinking idea, but we got five Republican slots which they can have, or four, whatever the heck it is, and an equal number on the Democratic side, but we agreed it would be an integrated staff, one staff director.

You know, we cannot have a committee running—it is bad enough having a Commission without having a committee running the Commission.

Senator LAXALT. Yes.

Mr. FASCELL. So that was all signed and sealed.

Now, a legitimate question: "Do you have any right to exist?" OK, I will defend that, and I think most of the organizations that we service in this country would all strongly support the existence of it, because we have filled a need. The need was that the two Foreign Affairs committees, Foreign Affairs and Foreign Relations, just would not have the capability of focusing on this issue as strongly as our constituent groups wanted.

Senator LAXALT. Is this focus purely on Helsinki?

Mr. FASCELL. Strictly Helsinki, with a special mention in the law that we must emphasize Basket 3, the so-called human rights basket, and we are charged with implementation. And so what we do is we charge around, and we help our Government point the finger at other governments, and we point the finger at ourselves on how we have lived up to this accord, in addition to which we get material from all over the world, behind the curtain and out of the Soviet Union and otherwise.

POLISH QUESTION

Senator LAXALT. I don't want to get into the substance of what you are doing over there, because we could spend days doing that, but to what extent did you involve yourselves in the Polish question insofar as it affected the courts?

Mr. FASCELL. Well, as far as the Commission is concerned, we backstopped, strictly speaking, the delegation in Madrid in terms of whatever was going to be said there, including the Secretary of State. We held a hearing, several hearings, it seemed to me. One was on the defection of the Ambassador with good testimony as to how the Soviets are subverting the entire Polish economy, you know, those kinds of things.

That is where we can come in. We can focus on those kinds of issues and give it an all-day hearing or a half-day hearing or whatever and try to get some attention.

SELECTION OF MADRID AS MEETING PLACE

Senator LAXALT. Why was Madrid selected as the meeting place?

Mr. FASCELL. Well, the signatory countries got together at Belgrade and they worked it out among themselves. They have to agree to everything, by the way.

So, anyway, that is the staff problem that Bob raises. So, basically, as far as I am concerned, he can call whatever shots he wants to call to whatever extent he wants to do it.

The problem I have, frankly, is we have had, I don't know, 20-some meetings. The Senator just cannot get there. He is too busy. I have to be there, though.

What can I tell you?

Senator LAXALT. Senator Rudman?

Senator RUDMAN. Thank you, Mr. Chairman.

I just quickly went through Senator Dole's statement. It kind of jogged my memory. It says, "The world will little note or long remember the U.S.-Helsinki——"

Mr. FASCELL. I read that.

Senator RUDMAN. I think that was taken from another famous speech. [Laughter.]

Mr. FASCELL. The thought that occurred to me is that old Bob ought to call me up and resign if he doesn't think we are doing anything.

Senator RUDMAN. Let me just ask one question, if I could.

Mr. FASCELL. Sure. Go ahead.

REASONS FOR NOT DISBANDING HELSINKI COMMISSION

Senator RUDMAN. Let me just read one sentence of the statement and just get your response. He said:

> In this period of looming budget shortfalls of immense proportions when those of us in the Congress are searching for ways to economize and cut back on the necessary government spending, it seems to me that it makes good sense to have the Foreign Affairs Committees on the House and Senate assume most of the functions presently served by the Helsinki commission.

Could you respond to that?

Mr. FASCELL. Sure. You could do that, absolutely, Senator. The only thing is, in abolishing the commission, first of all, from the economic standpoint, we are not even a blip on the screen at $550,000, but I am not sneezing at it. It is a lot of money.

Going back to a practical standpoint, the reason we were created is because all of the nongovernmental organizations and the constituent groups in this country were so frustrated that they could not get enough attention focused on this issue; that they are the ones who dreamed up the legislation, and the concept. As a matter of fact, Millicent Fenwick was the original author of this thing.

And they carried the ball to get this thing through the Congress. I guarantee you, if we abolish it right now, we are going to have the same problem. They are going to come screaming back in there to do something, and our committees, you know, obviously, are seized with the issue of human rights right now.

So the answer is: How much focus; how much emphasis; how much attention? The reason for the commission was to pull that issue out, stick it over here and [illegible] it a life of its own.

Basically, that was [illegible] concept; that was the reason 7 years ago.

I happen to believe it is still a valid reason today, and it may be for a long time, even though history may not know what we do. [Laughter.]

Senator RUDMAN. That is a wonderful line.

Mr. FASCELL. But I want to tell you something, Mr. Chairman—I am through—I want to tell you something, though. Politics will, you know.

QUESTION OF MADRID CONFERENCE

Senator LAXALT. Tell me. The last question here: Do you have any feeling as to how long the Madrid conference is going to last?

Mr. FASCELL. Well, Spencer has been running back and forth, and I am trying to hold him down here. They have been at it 2½ years. We just had Max Campelman here the other day with a very thorough briefing where we went at each other in terms of policy decisions and whatnot. I was interested, for example, in whether the administration is fully supporting him. He is totally satisfied on that score. It is a tough ballgame.

We are up to the point right now where we are going to have to fish or cut bait. Max Campelman is holding out for some kind of good-faith evidence on the part of the Soviets and some kind of action.

We just passed a resolution in the House which is on its way over here on the release of Soransky. The Helsinki controversy and everybody else of the 500 people that the Soviets would put in jail, and we have said that that would be pretty good evidence that you guys are serious about Helsinki, Afghanistan, and Poland.

You could also get down on Afghanistan. That would be pretty good. [Laughter.]

Mr. FASCELL. But we have no illusions. We have no illusions, so they might come right up to the door like that and say, finally, what we call a short document to terminate the meeting, and that has to be by consensus also. That document would say, "We have met, we have disagreed, and we are agreed to meet again."

That is what they did at Belgrade.

Now, they have got a very substantive document which is pending, and we are scratching and crawling and so are the western allies and the neutrals and the nonalined countries; we are all scratching, trying to get that document done, but the Soviets really don't have any incentive.

You know, they are just playing ballgames as they usually do. You cannot believe them. You cannot scare them. We have no leverage, let's face it.

What we are trying to do is every once in awhile, we beat them over the head, get their attention and shame them, but they don't shame too easily. [Laughter.]

Mr. FASCELL. By the way, in conclusion, let me just say that if you guys decide not to fund this, the happiest guys in the world would be the Soviets. They hate our guys. I am persona non grata. I cannot get a visa to get into the Soviet Union, because I am chairman of this Commission.

While we might be a small blip in history, and I don't want to overreact to that kind of statement, I mean we have pricked their conscience some way.

All the people who testifed before us tell us one thing: "Don't quit; don't give up. You are useful."

We asked them, "Are we any good to you?" And they say, "Look, we put our life on the line, and the one thing that keeps us coming is everytime they knock one of us down, another one jumps up; is the fact that you guys are out there, and you got the spotlight on them."

That is all I can tell you. Every single witness that we have brought up, every single dissident and ex-patriot that comes before our commission has told us that. So we are pretty successful.

Senator RUDMAN. Your testimony this morning will be monitored. [Laughter.]

Mr. FASCELL. Thank you.

SUBMITTED QUESTIONS

Senator LAXALT. Thanks. There will be additional questions from the subcommittee which we will ask you to answer for the record.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

SUBMITTED QUESTIONS

1. Given the massive number of violations of the Helsinki accords by the Soviet Union, does it really serve U.S. interests to remain involved in the process? Shouldn't we declare the accords null due to Soviet non-compliance rather than continue at the Madrid Conference and add legitimacy to the fiction that Helsinki continue?

In order to answer the question regarding the utility of the Helsinki process in the face of continuing Soviet disregard for their commitments, one must examine the alternatives. While it is true that the Soviet Union continues to engage in massive violations of the Helsinki Final Act -- within their own country in the field of human rights, in Afghanistan and through their involvement in the crackdown in Poland -- the Madrid Meeting and the series of consultations and meetings that constitute the Helsinki process provide valuable opportunities to focus the glare of public attention on Soviet misbehavior. The Madrid Meeting has provided us with the opportunity to expose the true nature of the Soviet regime to world-wide public opinion. To withdraw from the Helsinki process and from the Madrid Meeting would be to let the Soviets off the hook.

One must remember that CSCE is the only international forum in which those countries who share democratic values are in a majority. If we abandoned the CSCE process, the only other forum available to raise human rights issues would be the United Nations. In my opinion, the lack of viable alternatives to CSCE is reason enough to stick it out.

Furthermore, the Commission fully supports the insistence of the U.S. delegation, led by Amb. Kampelman, that the final outcome of the Madrid Meeting must include some actions which demonstrate that the Soviet Union has decided to honor its commitments under the Helsinki Final Act.

2. How do you interact with Executive agencies at the Madrid Conference? What is the lead agency?

The State Department is the lead agency at Madrid although its representatives, like the rest of the delegation, are under the direction of the delegation chairman, Ambassador Max Kampelman, who was appointed by the President. The interaction between Commission delegation members and those from other executive agencies (State, Defense, ACDA, USIA and Commerce) has been excellent throughout the meeting. While each delegation member has had a specific function to perform, there has been a real team effort in which everyone has pitched in to get the job done. In recognition of the Commission's important role in the Madrid Meeting, the Chairman and Co-Chairman have been designated Vice-Chairmen of the delegation (along with our Ambassador to Spain, Terrence Todman) and the Commission Staff Director has acted as Deputy Chairman to Ambassador Kampelman throughout the meeting.

* * * * *

3. When do you anticipate the conclusion of the Madrid Review Conference? After its conclusion will there be further conferences?

This current phase of the meeting, scheduled to begin on April 19, is likely to continue well into May in an effort to reach agreement on a balanced and substantive concluding document on the basis of a compromise text proposed by the neutral, non-aligned countries. If no agreement on how to end the meeting can be reached by that time other alternatives will have to be considered, including a short, communique-type document or a cessation of negotiations for several months or even a break in the meeting for a year or two.

One of the unique and important facets of the CSCE process is that it is an on-going, continuous mechanism. This allows for periodic reviews of implementation such as those held at the Madrid and Belgrade Meetings which give the West and the U.S. valuable forums for calling attention to implementation failures by the East. When the Madrid Meeting finally ends, provision will be made for the continuation of the CSCE process with anoither conference in 2-1/2 or 3-1/2 years, most likely in Vienna.

* * * * *

4. What sources of information does the Commission use in

monitoring the compliance of the 35 signatory countries with the articles of the Helsinki accords?

As an independent advisory agency of the U.S. Government, the Commission has access to Helsinki-related cables and other classified documents generated by the State Department and other executive branch departments. By virtue of the Commission's participation in CSCE consultations and meetings here in Washington and abroad, we are able to exchange information with other Helsinki signatory governments. At the same time, the Commission operates much as a Congressional office, receiving and sharing information with a myriad of non-governmental human rights advocacy organizations and individuals who are in a position to provide human rights information about other signatory states. Since a major focus of our efforts to monitor compliance are Warsaw Pact violations of the Helsinki accords, the Commission highly values the sources it has carefully cultivated over the six years of its operation -- contacts which are uniquely capable of gathering or receiving pertinent human rights information, often at great risk -- from within these closed societies. Commission specialists then translate (inter alia from Russian, Ukrainian, Serbo-Croation, German) these samizdat, or unofficial, publications and disseminate them. And, the Commission staff culls Helsinki-related news and information from public sources such as major newspapers, journals, wire service reports and government and scholarly publications.

* * * * *

5. Does the Commission receive information from the intelligence agencies?

The Commission frequently requests information from the intelligence agencies, but does not receive information in a regular way from any of the intelligence agencies as it does from the Department of State.

* * * * *

6. How do your casework functions differ from those of the State Department?

The Commission's casework functions supplement those of the Department of State and, in many instances, go significantly beyond. Our caselists for some countries are more comprehensive in that they include all kinds of human contacts cases such as binational marriage, family reunification, travel for personal or professional reasons, emigration and family visits, and in that we do not limit ourselves to cases involving only U.S. citizens but also permanent residents and third countries such as Israel. In addition, the Commission has the possibility to publicize these cases through hearings, reports, information supplied to the press, Congressional Record statements, and press releases which, of course, the State Department cannot do. We also provide Congressional delegations traveling to these countries or participating in international meetings with information on individual cases in order to bolster the official, diplomatic representations made by the State Department. Lastly, the State Department is not equipped to provide the kind of personal counseling of individuals directly involved in these cases, such as family members and friends, which the Commission staff performs.

* * * * *

7. Do you feel it is the responsibility of the Commission to inform the American people of violations of the Helsinki accords?

One of the main reasons for the establishment of the Commission in June 1976 was the feeling in Congress that the State Department did not adequately reflect American concern about human rights and other problems in the Warsaw Pact countries. Recognizing that the closed nature of these societies made it particularly difficult to garner information on societal problems, a major element in the Commission mandate has been to collect information on Warsaw Pact violations of the Helsinki Final Act, particularly in regard to human contacts and human rights.

This Congressional mandate is based on the perception that there is a continuing need for a forum for the articulation of various perspectives on human rights problems. Thus, the traditional concerns of various ethnic constituencies in the American public has combined with the broader concerns of the professional staff. The result has been that the Commission has become a clearinghouse for information on a broad range of human rights concerns: emigration issues, access to various sources of information, citizens' denial of political, social, economic, religious, national, ethnic and cultural rights. This on-going monitoring of these issues is done in several ways: public hearings for the expression of popular and expert views on implementation problems, extensive reports and staff participation in CSCE delegations.

The Commission, which by now has a six-year track record, has become a trusted source of reliable and accurate information on human rights and other issues for concerned individuals, organizations, Members of Congress and the press. At a time of tense East-West relations, it is more important than ever that the Commission continue its monitoring functions so that decisions on important issues will be made on the basis of fact, not fiction.

QUESTIONS SUBMITTED BY SENATOR HOLLINGS

1. What exactly is the role of the Commission at Madrid as it appears that you have moved from a monitoring function into the diplomatic activities of the United States Government?

Chairman Fascell and Co-chairman Dole served as Vice-Chairmen of the delegation to the Madrid Meeting and the other Commissioners are members of the delegation. Both Congressman Fascell and Senator Dole have participated in the meeting at various stages during the past two and one-half years as have several other Members of Congress. The Commission staff has played an essential role on the Madrid delegation since the beginning of the meeting in September 1980. The precedent for this was set in 1977 when the Secretary of State agreed with Chairman Fascell that participation of the Commission and its staff in the U.S. delegation to the Belgrade Meeting would be beneficial since the CSCE process is a unique mechanism in which the Congress as well as private non-governmental organizations would have a continuing interest.

The Commission staff, with its expertise and growing experience, has played a key role not only in the delegations to all CSCE meetings but also in developing and formulating CSCE policies of the U.S. Government. The Commission's role in official CSCE activities has helped to provide broad bi-partisan legislative-executive branch support for U.S. CSCE policy, particularly in the field of human rights.

Since the Madrid Meeting is primarily designed to review compliance with the Helsinki Accords and to devise ways and means to improve performance, the Commission's special expertise as a monitoring unit has direct application to both the review and new proposals phases of CSCE follow-up meetings of the Belgrade and Madrid type.

The U.S. delegation to the Madrid Meeting, from the outset, has been composed of representatives of several different government agencies, in addition to the Department of State, reflecting the disparate, varied provisions contained in the Helsinki Final Act. Serving alongside professional diplomats and members of the Commission and its staff have been representatives from the Joint Chiefs of Staff, ACDA, the Department of Commerce and the U.S. Information Agency. In addition, numerous Presidentially-appointed public members, representing a wide range of public interests and non-governmental organizations have served on the delegation from time to time.

Since Madrid-type meetings are the focal point of the implementation review unique to the CSCE process, the presence of members of the Commission and its staff on the Madrid delegation has been essential to maintain the Commission's monitoring function. Precisely for this reason, the non-governmental organizations and others who over the years have come to trust the Commission as a defender of human rights, have actively supported and encouraged Commission participation at CSCE meetings like Madrid. Commission staff members serving on the U.S. delegation have provided vital support and liaison functions for the numerous members of Congress and representatives of non-governmental organizations who have visited the meeting periodically.

2. How does the State Department's resources at the Madrid Meeting compare to the amount of Commission staff supporting the U.S. delegation?

Throughout the Madrid Meeting, the State Department has borne the lions share of the cost for the meeting. In addition to paying the prorated U.S. share to the Spanish Government for the rental of the conference hall, translations, administrative support, security, etc., the State Department has funded the cost of the U.S. delegations offices, local transportation and general delegation expenses. The State Department has also paid the full costs of its own personnel at the meeting including transportation and per diem. The number of State Department personnel working with the delegation has generally been at least at a 2/3 to 1/3 ratio relative to Commission personnel.

3. It is indicated that the Commission accumulated $116,000 due to your costs at Madrid being paid out of Mutual Security Act funds. How much of the Commission's expenses in fiscal 1982 were charged to the Mutual Security Act?

The $116,000 was due to the Commission's delay in carrying out certian projects and functions that are dependent upon the conclusion of the Madrid Meeting. Included would be the cost of printing and disseminating a final report on the meeting and the costs incurred in holding hearings related to the outcome of the Madrid Meeting. In addition, briefings, meetings and conferences throughout the country with non-governmental organizations and other interested groups will take place at the conclusion of the Madrid Meeting and will take up quite a bit of the Commission's domestic travel funds. Some of the accumulated money can be attributed to the Commission's efficient management of its resources.

The Commission's expenses in FY 82 charged to the Mutual

Security Act, which totalled $87,562, were all related to international travel, primarily to the Madrid Meeting.

4[illegible] The Commission apparently believes that the Madrid Meeting will conclude even though it has been going on since November 11, 1980. When do you expect to reach a conclusion at Madrid?

The meeting has been deadlocked ever since martial law was declared in Poland and continues to be deadlocked due to the situation in Poland and an increase in the flagrant violations of the human rights provisions of the Helsinki Final Act by the Warsaw Pact countries. Also, the U.S. Government has long believed that a substantive and balanced concluding document will be almost impossible to negotiate in the present international circumstances. The neutral, non-aligned countries as well as most of our allies feel we should continue to seek agreement on a substantive and balanced concluding document no matter how long it takes and we should not abruptly break off the Madrid Meeting. The U.S. delegation, however, believes that for the negotiations to continue much longer without result would be detrimental to the CSCE process and that we should consider, if we cannot reach agreement, a long recess of one year or more or a short non-substantive concluding document which simply reflects the inability to reach agreement and sets the time and place for another review meeting two or three years down the road. At the present time, however, we have no support from any other participating state for such a solution to the Madrid deadlock.

COMMISSION ON CIVIL RIGHTS

STATEMENT OF CLARENCE M. PENDLETON, CHAIRMAN, COMMISSION ON CIVIL RIGHTS

ACCOMPANIED BY:

JOHN HOPE, III, ACTING STAFF DIRECTOR
BERT SILVER, ASSISTANT STAFF DIRECTOR FOR ADMINISTRATION
JOHN G. BIRKLE, BUDGET OFFICER

BUDGET REQUEST

Senator LAXALT. Welcome, gentlemen.

Mr. PENDLETON. Thank you.

Senator LAXALT. Sorry we are a little late getting to you.

Mr. PENDLETON. It was interesting.

Senator LAXALT. Are you ready to go?

Mr. PENDLETON. Yes, sir.

Senator LAXALT. All right.

Our last request is that on the Commission of Civil Rights. The amount requested for 1984 is $12,180,000, an increase of $199,000 over an anticipated 1983 budget.

Appearing on behalf of this request is the chairman, Mr. Pendleton.

Mr. PENDLETON. Thank you.

Senator LAXALT. I am delighted to have you all here. You may proceed in any manner that you wish, Mr. Chairman.

Mr. PENDLETON. Thank you, Mr. Chairman.

ADMINISTRATION SUPPORT OF COMMISSION

My name is Clarence Pendleton. I am Chairman of the U.S. Commission on Civil Rights.

With me is Acting Staff Director, Mr. Hope; Assistant Staff Director for Administration, Mr. Silver; and the budget officer, Mr. Birkle.

PREPARED STATEMENT

We have submitted testimony for the record, and it would appear we will have an increase over what might have been the earlier mark.

[The statement follows:]

PREPARED STATEMENT OF CLARENCE M. PENDLETON, JR., CHAIRMAN

U.S. COMMISSION ON CIVIL RIGHTS

Mr. Chairman and members of the committee, I am Clarence M. Pendleton, Jr., chairman of the U.S. Commission on Civil Rights. Accompanying me are John Hope, III, Acting Staff Director; Bert Silver, Assistant Staff Director for Administration; and John G. Birkle, budget officer.

I am pleased to appear before you today for the first time to testify in support of the President's request for $12,180,000 and 235 full-time equivalent positions for fiscal year 1984. Including the amounts requested in the pay cost supplemental, we anticipate that the appropriation for fiscal year 1983 will be $11,981,000 supporting 237 full-time equivalent positions. The 1984 request thus represents an increase of $199,000 over the appropriation expected for fiscal year 1983. However, after adjustments are made for mandatory increases, the 1984 request actually represents a $437,000 decrease in program activity.

As you are aware, unless extension legislation is passed, the life of the Commission will expire at the end of fiscal year 1983. In his state of the Union message the President said "* * * we will ask for extension of the Civil Rights Commission which is due to expire this year. The Commission is an important part of the ongoing struggle for justice in America and we strongly support its reauthorization." A bill to extend the Commission has been introduced in the House of Representatives and we expect legislation soon will be introduced in the Senate.

When my predecessor testified before this subcommittee last year, he indicated that the fiscal year 1983 request, since enacted in a continuing joint resolution, would require a cutback in Commission program activity, which might require the closing of two regional offices and a reduction-in-force of approximately 20 employees in the latter part of the year. I am pleased to inform you that subsequent events have made a reduction-in-force and the closing of two regional offices unnecessary.

The amount we are requesting for fiscal year 1984 is higher than the original OMB planning estimate with which we worked last year. We, therefore, find that we can enter fiscal year 1984 at approximately the same staffing level we will maintain in fiscal year 1983, thus avoiding a RIF. Funds we would have used to pay out accumulated annual leave and severance pay to RIFed employees will be used instead to cover salaries in the last quarter of fiscal year 1983. The combination of these circumstances, coupled with the lower employment level we have achieved by attrition and a freeze on hiring will allow us to get by without a RIF while not exceeding our full-time equivalent ceiling.

The program we propose, although reduced in terms of the number of activities to be carried over to or initiated in fiscal year 1984, is similar in content to those offered in previous appropriation requests. Since it is discussed in detail in the justification, I will not repeat it here. You will note, however, that the Commission's long-standing interest in eliminating barriers to equal opportunity in employment and economic development, education, housing, the administration of justice and participation in the political process will continue. We also will continue monitoring Federal agency effectiveness in carrying out civil rights responsibilities. State Advisory Committee activity will continue in all 50 States and the District of Columbia and no regional offices will be closed.

I believe that the work of the Commission remains critical to the well being of the Nation. My colleagues on the Commission certainly join me in this assessment. I will be pleased to answer questions concerning any aspects of our appropriation request or the work of the Commission generally.

REAUTHORIZATION OF COMMISSION BY PRESIDENT

Mr. PENDLETON. We will not have to close regional offices as we thought or to reduce staff as was anticipated last year.

The President in his address clearly indicated that he would seek reauthorization for the Commission. I am happy to say that he has done that and has submitted a letter to the Hill to reauthorize the Commission for its longest reauthorization term, 20 years, which is about three-fourths of the time the Commission has already existed.

We are appreciative of that support, including the support for set terms for commissioners. We also think that our oversight committee will recommend reauthorization.

I can say that one of the things we have problems with in our budget, and it is one of the things not easy to rectify, is that most of our work is labor intensive, but the labor intensive work is being ground into fixed costs such as space. For example, I think the latest information that we have is to curtail people to 135 square feet, which is not too much working area. We find that each year, as the fixed costs go up, it eats into our capacity to do our job, to handle our mandate.

This is not to say that this committee necessarily handled that request, but we want to make you aware that the increases requested are really in the fixed cost category.

OMB has helped us in handling our pay increase requests, because we don't, at $12 million, have much room to absorb the pay increases.

With that, Mr. Chairman, we would be prepared to answer any questions you may have.

Senator LAXALT. Very well

Thank you, Mr. Chairman.

COMMISSION-ENFORCEMENT AGENCIES INTERACTION

How does the Commission presently interact with the Civil Rights enforcement agencies, EEOC, Justice?

Does that work very well?

Mr. PENDLETON. That works very well. In our oversight responsibility we monitor the enforcement activities of those agencies, and we comment on regulations and guidelines as they are issued.

We have a good relationship now with the Assistant Attorney General for Civil Rights and also the excellent leader of the EEOC who is a good personal friend.

It worked out very well. I think that is working out.

Senator LAXALT. Do you think this is just a matter of policy, that this Commission would work out better if tied directly to enforcement agencies?

Mr. PENDLETON. No; I think it would really, sir, circumvent our mandate, which is to be independent, and not be an enforcement agency, but to appraise the Congress and the President about its work as it affects America's citizens.

METHOD OF CHOOSING TOPICS OF STUDY

Senator LAXALT. This is a matter of interest: How currently do you choose your topics for study and examination?

Mr. PENDLETON. We have a rather elaborate planning process that involves the staff and the Commission. It goes on for quite some time in the year and culminates in the Commissioners picking priorities of areas of interest that we think are germane to the issues. We develop program proposals around those and then go from there.

It is an extensive process that is long and involved.

Senator LAXALT. Just as a matter of a general overview, members of the Commission, those of you who have served a long while there, are we making progress in this area?

Mr. PENDLETON. We are making progress. I think there is a very, very long way to go. My own concerns are, that I think over the years, what has happened is that we have increased the number of protected classes without increasing the amount of opportunities.

Senator LAXALT. What do you mean by that? Translate that for me.

Mr. PENDLETON. I think when the Commission was first started in 1957, I think a lot of us thought that blacks were the only people who would be protected. We have, if you look at the numbers and look at the different classes, we have about 17 projected classes.

Senator LAXALT. Seventeen?

Mr. PENDLETON. Yes; and when you look at that, and the opportunities being any greater, we still have the same problems in this country.

One has to look to a matter of increasing the number of people who want a piece of the pie, or does one increase the amount of the pie for which there must be equal access, thereby increasing the opportunity? I must say that this is not necessarily a Commission observation, but since I am here, that is a personal observation.

We think opportunities need to be increased so that we can move along into a kind of society we all envision.

Senator LAXALT. Very interesting.

Do you have any more here?

SUBMITTED QUESTIONS

We have some other questions here, and I won't take up your time now. We will submit them, if we may, and if you could get them back to us, we would greatly appreciate it.

Mr. PENDLETON. Thank you.

Senator LAXALT. Thank you so much for coming in.

Mr. PENDLETON. Interesting conversation.

Senator LAXALT. It was. It really was.

Mr. PENDLETON. I want to go to Madrid. [Laughter.]

Senator LAXALT. Thank you, very kindly.

We appreciate it.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

SUBMITTED QUESTIONS

Question. How do you determine what topics require hearings? Why can't the information gathered at hearings be obtained through studies?

Answer. Hearing topics are determined by the Commissioners. The decision may be based on staff proposals, outside requests, requests from State Advisory Committees, current or unforeseen events such as the Miami racial disturbances in 1980, or the Commissioners' understanding of the concerns of the American public.

Hearings often utilize specific communities as case studies to stimulate further the development of research on civil rights issues. Commission hearings also often focus on current topics on which little research has been done. Therefore, the hearing process itself is a study that produces a formal record of information based on the testimony of experts, representatives of Federal, State and local agencies, individuals from civic, business, labor, education, and professional organizations and private citizens. This firsthand testimony under oath is the best evidence available and permits the Commissioners to learn about problems from people who are directly involved. Based on our statute the Commission can only use a subpena to obtain necessary materials or views in the hearing context.

Question. What type of exhibits do you create for outside conferences?

Answer. The Commission does not create an exhibit for each conference at which it is represented. The Commission maintains an exhibit module with photos which reflect the areas covered by the Commission's jurisdiction. The module also has a projector screen for viewing one of six different 8 mm cassette films on (1) general civil rights history; (2) education; (3) employment; (4) housing; (5) the administration of justice; and (6) Hispanic civil rights issues. Commission publications related to the conference theme or organization's interest are displayed on shelves located on one side of the module.

Question. In November 1981, the Commission held a 2-day hearing in Baltimore, Md. to assess the nature of the barriers to minority economic development in that community. What is the purpose of initiating such site specific studies by the full Commission?

Answer. During its examination of the underlying causes of racial and community unrest in Miami in 1980, the Commission found that the absence of Miami's black community from the economic mainstream in Miami, in the midst of an economic boom, proved to be a significant factor leading to the city's 1980 riots. Based on testimony and research, it appeared that the inability of minority entrepreneurs to obtain venture capital due to lack of collateral, equity, and "track record" was not unique to Miami. The Commission decided to examine minority economic development in another major city also undergoing urban revitalization. The city of Baltimore, Md. was selected because it has undergone major downtown commercial redevelopment, has a population which is over 50 percent black, and has received hundreds of millions of dollars in Federal funds for urban redevelopment.

Holding the hearing in Baltimore had several purposes. First, it permitted the Commission to examine urban minority economic development more closely, and to receive testimony on the issues from all segments of the community. Second, this method enabled the Commission better to evaluate programs and civil rights enforcement efforts designed to encourage minority entrepreneurship and suggest future strategies for the full participation of minorities in the urban economic mainstream. Third, it is more cost effective for the Commission to go to a local area to study the issues than to bring witnesses to Washington. Finally, experience has proven that the Commission's presence in an area often results in better communications between local groups and increased efforts to solve common problems.

SUBCOMMITTEE RECESS

Senator LAXALT. The committee will recess until 9:30 a.m., Wednesday, April 20, when we will hear from the U.S. Courts, the International Trade Commission, and the Federal Maritime Administration.

[Whereupon, at 10:40 a.m., Wednesday, April 13, the subcommittee was recessed, to reconvene at 9:30 a.m., Wednesday, April 20.]

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1984

WEDNESDAY, APRIL 20, 1983

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 10 a.m., in room S. 146, the Capitol, Hon. Arlen Specter presiding.

Present: Senators Specter and Hollings.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

STATEMENTS OF:

CHARLES CLARK, CHIEF JUDGE, U.S. COURT OF APPEALS FOR THE FIFTH CIRCUIT

SOLOMON BLATT, JR., U.S. DISTRICT JUDGE, DISTRICT OF SOUTH CAROLINA

ACCOMPANIED BY:

WILLIAM E. FOLEY, DIRECTOR, ADMINISTRATIVE OFFICE OF THE U.S. COURTS

EDWARD V. GARABEDIAN, ASSISTANT DIRECTOR FOR PERSONNEL AND FINANCIAL MANAGEMENT

DEWEY R. HEISING, CHIEF, FINANCIAL MANAGEMENT DIVISION

INTRODUCTION OF WITNESSES

Senator SPECTER. Good morning, ladies and gentlemen. The subcommittee will come to order. Senator Hollings, do you have any opening comments to make?

Senator HOLLINGS. No, thank you, Mr. Chairman. I am just delighted to be with Judge Clark and my longtime friend, Judge Blatt here. We miss Judge Maxwell. Is he still with your committee?

Judge BLATT. Yes, sir.

Judge CLARK. Yes, sir.

Senator HOLLINGS. Very good.

Give him my best. Thank you.

Senator SPECTER. Thank you, Senator Hollings.

BUDGET REQUEST

Our first request this morning is for the U.S. courts of appeals and district courts for fiscal year 1984. The total proposal for these accounts is $860 million plus. Appearing on behalf of this request we have Judge Charles Clark, Chief Judge of the U.S. Court of Appeals for the Fifth Circuit, and U.S. District Judge Solomon Blatt, Jr., of South Carolina.

Mr. William Foley, the Director of the Administrative Office of the U.S. Courts is also with us. Mr Foley, your statement on behalf of the request for the Administrative Office will be included in the record.

Mr. **Foley**. Thank you.

Senator **Specter**. Our practice, as you doubtless know, is to include all the statements in the record. The preference is that the statements be summarized, to leave the maximum amount of time for questions. Judge Clark, we will begin with you.

Judge **Clark**. Thank you, Senator Specter.

If I may, I will add an addendum to the statement as well as our statement itself.

Senator **Specter**. Thank you.

We will include that in the record, as well.

Judge **Clark**. The budget for the judiciary this year includes approximately $92 million in increased requests over last year. Approximately half of that increase is simply the amount of money that we need to keep things going as they are.

The remaining $48 million represents new programs and increased programs. I don't know that there is any additional summary unless the committee is interested in some particular items. I would now take any questions that Your Honors have.

[The statement of Judge Clark and budgetary materials follow:]

PREPARED STATEMENT OF JUDGE CHARLES CLARK

JUDICIAL CONFERENCE OF THE UNITED STATES

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

THANK YOU FOR THIS OPPORTUNITY TO APPEAR BEFORE YOU IN SUPPORT OF THE BUDGET ESTIMATES FOR THE OPERATION OF THE UNITED STATES COURTS OF APPEALS AND DISTRICT COURTS FOR FISCAL YEAR 1984.

JUDGE SOLOMON BLATT, JR. OF THE DISTRICT OF SOUTH CAROLINA, FOR THE LAST 6 YEARS A MEMBER OF THE BUDGET COMMITTEE, APPEARS WITH ME TODAY.

MR. WILLIAM E. FOLEY, DIRECTOR OF THE ADMINISTRATIVE OFFICE, AND MEMBERS OF HIS STAFF WILL ALSO ASSIST ME IN THE PRESENTATION. WE SHALL ENDEAVOR TO ANSWER YOUR QUESTIONS OR PROVIDE ANY ADDITIONAL INFORMATION YOU MAY REQUIRE.

MR. CHAIRMAN, WE ASSURE YOU THAT OUR BUDGET REQUIREMENTS FOR 1984 REFLECT A MAJOR EFFORT ON THE PART OF THE JUDICIARY TO REDUCE ITS REQUEST TO THE MINIMUM. WE RECOGNIZE THE NEED FOR A COMMITMENT TO FISCAL RESTRAINT IN THE FACE OF A PROJECTED RECORD DEFICIT. THE BUDGET REQUIREMENTS FOR THE COURTS OF APPEALS AND DISTRICT COURTS, AS AMENDED IN OUR LETTER OF FEBRUARY 28, 1983 TO THE OFFICE OF MANAGEMENT AND BUDGET (OMB), TOTAL $860,284,000, $92 MILLION AND 1,297 POSITIONS OVER FISCAL YEAR 1983. ONE HALF OF THE INCREASE IN FUNDING IS FOR THE COST OF MAINTAINING THE CURRENT LEVEL OF SERVICES. THE REMAINING AMOUNT AND THE ADDITIONAL POSITIONS ARE REQUESTED FOR PROGRAM CHANGES WHICH ARE PRINCIPALLY DUE TO CONTINUED INCREASES IN CASE FILINGS AND THE IMPACT OF RECENT LEGISLATION ON THE WORKLOAD OF THE COURTS.

INCREASES IN THE JUDICIARY CASELOADS ARE SHOWN IN THE ATTACHED FIVE-YEAR TABLE. FROM FISCAL YEAR 1977 THROUGH FISCAL YEAR 1982, THE COMBINED TOTAL OF CIVIL AND CRIMINAL CASE FILINGS INCREASED BY 73,000 (42 PERCENT) AND APPEALS BY 9,000 (46 PERCENT). BANKRUPTCY FILINGS INCREASED BY 324,000 ESTATES (152 PERCENT). THE MAGISTRATES' WORKLOAD ALSO INCREASED, DESPITE REDUCTION IN THE CRIMINAL CASELOAD, BECAUSE OF ADDITIONAL DUTIES DELEGATED TO THEM BY THE JUDGES OF THE DISTRICT COURTS. TO HANDLE THIS HEAVIER WORKLOAD, THE COURTS OF APPEALS, DISTRICT COURTS, AND BANKRUPTCY COURTS HAD TO BE INCREASED 30 PERCENT, FROM 10,577 TO 13,698 POSITIONS.

THE BANKRUPTCY ACT OF 1978 CONTINUES TO ADD GREATLY TO THE COST OF OPERATING THE FEDERAL JUDICIAL SYSTEM. THE PRETRIAL SERVICES LEGISLATION PASSED IN 1982 HAS ESTABLISHED ON A NATIONAL BASIS PROGRAMS HERETOFORE OPERATED ONLY IN TEN DISTRICTS. THE STANDARD LEVEL USER CHARGES (SLUC) LEVIED BY THE GENERAL SERVICES ADMINISTRATION (GSA) FOR SPACE OCCUPIED BY THE JUDICIARY MAKE UP A SIGNIFICANT PART OF OUR BUDGETARY REQUIREMENTS. THE RENTAL CHARGE FOR 1984 IS ESTIMATED AT $143,382,000, AN INCREASE OF $35,366,000 OR 32.7 PERCENT OVER 1983. WE ARE PLEASED THAT INFLATION WILL NOT HAVE THE IMPACT ON OUR BUDGET REQUIREMENTS FOR 1984 WHICH IT HAS HAD IN THE PAST. DURING THE DEVELOPMENT OF OUR BUDGET, WE PROJECTED AN AVERAGE INFLATION INCREASE OF 8 PERCENT. THIS NOW APPEARS TO BE HIGHER THAN NECESSARY. WE WOULD WELCOME THE OPPORTUNITY TO WORK WITH YOUR COMMITTEE'S STAFF TO BRING OUR REQUESTED INCREASE FOR INFLATION IN LINE WITH MORE RECENT EXPERIENCE.

TO STAY ABREAST OF CURRENT MANAGEMENT AND INFORMATION TECHNIQUES, WE ARE EXPANDING THE AUTOMATION OF MANY COURT FUNCTIONS, INCLUDING CIVIL AND CRIMINAL DOCKETS, FINANCIAL MANAGEMENT AND BANKRUPTCY NOTICING. WE ARE ALSO CONTINUING EXPERIMENTS WITH NEW TECHNOLOGIES TO IMPROVE COURT PROCEDURES, SUCH AS TELEPHONE CONFERENCING, ELECTRONIC TRANSMISSION OF OPINIONS AND ELECTRONIC RECORDING OF COURT PROCEEDINGS. WITH EXPANDED AUTO-

MATION AND THE USE OF NEW TECHNOLOGIES, WE EXPECT TO IMPROVE SERVICE TO LITIGANTS AND ACHIEVE SIGNIFICANT SAVINGS IN PERSONNEL COSTS. OUR FUNDING REQUEST FOR PEOPLE AND EQUIPMENT IS THE MINIMUM NECESSARY TO HANDLE RISING CASELOADS, IMPROVE JUDICIAL SERVICES, AND ACHIEVE THOSE EFFICIENCIES NECESSARY TO KEEP OVERALL COSTS DOWN.

APPROPRIATIONS REQUESTED FOR FISCAL YEAR 1984

OUR REQUEST OF $860,284,000 FOR FISCAL YEAR 1984, AS AMENDED BY OUR TRANSMITTAL TO OMB DATED FEBRUARY 28, 1983, REPRESENTS AN INCREASE OF $91,547,000 OVER THE AMOUNTS APPROVED FOR FISCAL YEAR 1983 AFTER TAKING INTO CONSIDERATION THE PROPOSED SUPPLEMENTALS FOR 1983. THIS INCREASE CONSISTS OF $45,938,000 FOR ADJUSTMENTS TO BASE AND $45,609,000 FOR PROGRAM CHANGES. IF WE EXCLUDE THE COST OF THE ADJUSTMENTS TO BASE AND BUILT-IN CHANGES, WHICH ARE OF AN UNCONTROLLED NATURE, OUR ADDITIONAL PROGRAM REQUIREMENTS WOULD REPRESENT A 5.9 PERCENT INCREASE IN THE BUDGET. THESE PROGRAM REQUIREMENTS CONSIST PRIMARILY OF 1,297 POSITIONS, OF WHICH 976 POSITIONS ARE REQUESTED UNDER THE HEADING "SALARIES OF SUPPORTING PERSONNEL," AND 321 POSITIONS UNDER THE HEADING "BANKRUPTCY COURTS, SALARIES AND EXPENSES." THESE POSITIONS REPRESENT A 9 PERCENT INCREASE IN THE TOTAL PERSONNEL REQUIREMENTS OF THE JUDICIARY OVER FISCAL YEAR 1983.

CASELOAD

AS A RESULT OF AN 8.3 PERCENT INCREASE IN CASES TERMINATED IN FISCAL YEAR 1982, THE PENDING CASELOAD IN THE COURTS OF APPEALS WAS LOWER THAN AT THE END OF 1981 BY 391 CASES. I AM PLEASED TO REPORT THAT FOR THE FIRST TIME IN 25 YEARS, THE NUMBER OF CASES TERMINATED EXCEEDED THE NUMBER OF NEW FILINGS. THE ADDITIONAL JUDGESHIPS PROVIDED IN 1978 HAVE HAD A SIGNIFICANT EFFECT ON THE RATE OF DISPOSITIONS.

WITH REGARD TO THE DISTRICT COURTS, THE INCREASE IN CRIMINAL

CASES EXPERIENCED IN 1981 CONTINUED IN 1982. CRIMINAL FILINGS INCREASED FROM 31,280 IN 1981 TO 33,097 IN 1982. THE TREND IN CIVIL FILINGS CONTINUES TO MOVE UPWARD WITHOUT PAUSE. OVER THE PAST FIVE YEARS, CIVIL FILINGS HAVE INCREASED BY 58.7 PERCENT WHILE THE 1982 INCREASE ALONE WAS 14.5 PERCENT OVER 1981. NOTWITHSTANDING A SUBSTANTIAL INCREASE IN THE RATE OF TERMINATIONS ACHIEVED IN 1982 OVER 1981, THE GROWTH IN CIVIL AND CRIMINAL FILINGS OVER THE PAST FIVE YEARS HAS CAUSED THE PENDING CASELOAD TO GROW BY 31.0 PERCENT, TO A NEW RECORD OF 229,635.

FORTUNATELY, THE INCREASE IN BANKRUPTCY FILINGS SLOWED SOMEWHAT IN 1982, BUT STILL REACHED AN ALL-TIME RECORD HIGH OF 536,419. THIS REPRESENTS AN INCREASE OF 2.7 PERCENT OVER LAST YEAR, AND AN INCREASE OF 152.2 PERCENT OVER THE LAST FIVE YEARS. ALTHOUGH BANKRUPTCY TERMINATIONS TOTALED 434,932, AN INCREASE OF 91.8 PERCENT OVER 1977, THE PENDING CASELOAD ROSE TO 756,553, ALMOST THREE TIMES THAT OF 1977.

SALARIES OF JUDGES

MR. CHAIRMAN, OUR REQUEST FOR THIS APPROPRIATION EACH YEAR IS BASED ON ANTICIPATED VACANCIES AND THE NUMBER OF JUDGES THAT WILL TAKE SENIOR STATUS. WE ESTIMATE THAT IN FISCAL YEAR 1984 THERE WILL BE, ON THE AVERAGE, 20 JUDGESHIP VACANCIES. IN ADDITION, PROVISION HAS BEEN MADE FOR AN AVERAGE NET INCREASE OF SIX JUDGES IN SENIOR STATUS IN FISCAL YEAR 1984. BY 1984, 86 JUDGES WILL BE ELIGIBLE TO TAKE SENIOR STATUS.

SALARIES OF SUPPORTING PERSONNEL

WE HAVE REQUESTED A NET INCREASE OF 976 SUPPORTING PERSONNEL FOR THE COURTS OF APPEALS AND DISTRICT COURTS. A SUMMARY OF THE ADDITIONAL POSITIONS IS CONTAINED ON PAGE 6.3 OF OUR BUDGET JUSTIFICATION AND PAGE A84-3 OF THE AMENDMENT.

A MAJOR PORTION OR 476 OF THE ADDITIONAL POSITIONS CAN BE ATTRIBUTED TO INCREASED WORKLOAD IN CIRCUIT AND DISTRICT COURTS WHILE 313 ADDITIONAL POSITIONS WILL BE REQUIRED TO EXPAND THE PRETRIAL SERVICES PROGRAM NATIONWIDE.

IN LIGHT OF A PROJECTED 8 PERCENT INCREASE IN CIVIL AND CRIMINAL CASE FILINGS IN 1984 AND SUPPORTED BY THE MOST RECENT WORK MEASUREMENT STUDY OF THE DISTRICT COURT CLERKS' OFFICES, WE ARE REQUESTING AN ADDITIONAL 430 DEPUTY CLERK POSITIONS. ACTUALLY, THE WORK MEASUREMENT FORMULA, AS APPROVED BY THE JUDICIAL CONFERENCE, WOULD HAVE JUSTIFIED 183 MORE POSITIONS, BUT SUBSEQUENT REFINEMENTS IN THE FORMULA, PARTICULARLY RELATIVE TO STUDENT LOAN CASES AND MISDEMEANOR CRIMINAL CASES, HAVE PERMITTED A DOWNWARD ADJUSTMENT. IT SHOULD ALSO BE NOTED THAT SINCE THE FORMULA WAS APPROVED, SOME ADDITIONAL POSITIONS WERE FOUND NECESSARY FOR CIVIL CASE MANAGEMENT AND JUROR UTILIZATION IN RESPONSE TO CRITICISMS RAISED BY THE GENERAL ACCOUNTING OFFICE (GAO) IN RECENT REPORTS. AN ADDITIONAL 46 POSITIONS ARE REQUESTED FOR THE COURTS OF APPEALS CLERKS' OFFICES BASED ON THE PROJECTED GROWTH IN FILINGS, FROM 31,000 TO 32,500, AND THE NEED TO REDUCE THE NUMBER OF CASES PER DEPUTY CLERK FROM 83 TO A FIGURE MORE IN LINE WITH THE 75 CASE FILINGS APPROVED BY THE JUDICIAL CONFERENCE. THIS REQUEST WILL RESULT IN AN OVERALL RATIO OF 78 APPEALS FILINGS PER DEPUTY CLERK.

THE PRETRIAL SERVICES ACT OF 1982, PUBLIC LAW 97-267, WHICH WAS APPROVED SEPTEMBER 29, 1982, PROVIDES FOR THE ESTABLISHMENT OF PRETRIAL SERVICES THROUGHOUT THE DISTRICT COURTS, AND BECOMES EFFECTIVE HALFWAY THROUGH FISCAL YEAR 1984. THE PROGRAM REQUIRES A PRELIMINARY BACKGROUND INVESTIGATION OF ALL DEFENDANTS, EXCEPT THOSE CHARGED WITH PETTY OFFENSES, AND THE PROVISION OF SUPERVISION AND SUPPORTING SERVICES WHERE REQUIRED.

THESE FUNCTIONS WILL BE PERFORMED THROUGH EXISTING PROBATION OFFICES, OFFICES ESTABLISHED SPECIFICALLY FOR PRETRIAL SERVICES, OR BY

CONTRACT: BASED ON THE APPLICATION OF WORK MEASUREMENT FACTORS TO THE PROJECTED NUMBER OF CRIMINAL DEFENDANTS, WE HAVE SUBMITTED AN AMENDMENT REQUESTING A TOTAL OF 439 PRETRIAL SERVICES POSITIONS. SINCE 126 POSITIONS ARE CURRENTLY INCLUDED IN THE BUDGET FOR THE TEN PILOT DISTRICTS, FUNDS FOR THE REMAINING 313 POSITIONS FOR A THREE-MONTH PERIOD HAVE BEEN REQUESTED.

WITH RESPECT TO THE REMAINING FUNCTIONS OF THE PROBATION SERVICE WE ARE REQUESTING 73 ADDITIONAL POSITIONS BASED ON THE WORK MEASUREMENT FORMULA APPROVED BY THE JUDICIAL CONFERENCE AND WORKLOAD PROJECTIONS FOR 1984 WHICH WERE CALCULATED LAST SUMMER. WE NOW HAVE MORE RECENT DATA WHICH INDICATES THAT OUR WORKLOAD PROJECTIONS AND POSITIONS REQUESTED MAY BE UNDERSTATED. HOWEVER, WE HAVE DEFERRED THE SUBMISSION OF A REQUEST FOR ADDITIONAL PERSONNEL WHILE WE CONTINUE TO MONITOR THE PROBATION WORKLOAD FACTORS. IF THE NUMBER OF PERSONNEL WHICH WE ARE REQUESTING PROVES TO BE INSUFFICIENT FOR MAINTAINING THE SUPERVISORY FUNCTION AT AN ACCEPTABLE LEVEL, WE MAY NEED TO SUBMIT A SUPPLEMENTAL REQUEST FOR ADDITIONAL PERSONNEL.

OUR REQUEST ALSO INCLUDES 15 NEW FULL-TIME MAGISTRATES, SUPPORTING STAFF, AND 34 ADDITIONAL LEGAL ASSISTANTS. THE USE OF MAGISTRATES WHO ASSUME MANY OF THE MINOR JUDICIAL MATTERS THAT OTHERWISE BURDEN THE DISTRICT COURT JUDGES, PARTICULARLY IN THE AREA OF PRETRIAL MOTIONS AND THE CONDUCT OF PRETRIAL CONFERENCES AND OTHER PROCEEDINGS, HAS BEEN SUCCESSFUL AND IS CONTINUING TO EXPAND THROUGHOUT THE COUNTRY. TEN OF THESE MAGISTRATE POSITIONS AND 11 OF THE LEGAL ASSISTANT POSITIONS ARE REQUESTED IN OUR AMENDMENT TRANSMITTED TO OMB ON FEBRUARY 28, 1983. THE LATENESS OF THIS REQUEST FOR FISCAL YEAR 1984 IS DUE TO THE PRACTICE OF THE JUDICIAL CONFERENCE WHICH CONSIDERS NEW MAGISTRATE REQUIREMENTS EVERY SIX MONTHS RATHER THAN ANUALLY. THE FREQUENT CONSIDERATION PERMITS A MORE ACCURATE ANALYSIS OF JUDICIAL REQUIREMENTS.

THE JUDICIARY IS PHASING IN THE EXPANSION OF THE NATIONAL COURT LIBRARY SYSTEM CONSISTENT WITH THE RECOMMENDATIONS OF YOUR COMMITTEE. IN FISCAL YEAR 1984, THE NATIONAL COURT LIBRARY SYSTEM WILL HAVE COMPLETED THREE YEARS OF OPERATION. WE EXPECT TO COMPLETE THE STAFFING OF THIS SYSTEM BY 1988 WITH NEARLY EQUAL INCREMENTS OF PERSONNEL EACH YEAR. OUR REQUEST FOR FISCAL YEAR 1984 IS FOR 19 POSITIONS.

THE BUDGET CONTAINS A REQUEST FOR $456,000 DUE TO RECLASSIFICATION OF POSITIONS IN THE CLERKS' OFFICES OF THE CIRCUIT COURTS OF APPEALS AND FOR PERSONNEL IN THE CLERKS' OFFICES OF THE DISTRICT COURTS WHO FUNCTION AS COURTROOM DEPUTIES FOR MAGISTRATES. RECLASSIFICATION IN THE COURTS OF APPEALS RESULTS FROM AN EXTENSIVE STUDY APPROVED BY THE JUDICIAL CONFERENCE. FOR THE FIRST TIME GRADE LEVELS WILL BE COMMENSURATE WITH THE DUTIES AND RESPONSIBILITIES ASSIGNED.

DEFENDER SERVICES

OUR REQUEST FOR FISCAL YEAR 1984 IN THIS APPROPRIATION REPRESENTS AN INCREASE OF $2,975,000 OVER 1983. THIS "NO YEAR" APPROPRIATION IS SUBJECT TO LITTLE CONTROL. OUR REQUIREMENTS ARE BASED ON THE NUMBER OF PERSONS WHO MUST BE REPRESENTED UNDER THE CRIMINAL JUSTICE ACT. MUCH OF THE REQUESTED INCREASE IS A RESULT OF THE CONTINUING UPWARD TREND IN THE NUMBER OF CRIMINAL JUSTICE ACT APPOINTMENTS DUE TO INCREASED CRIMINAL FILINGS. INCREASING COMPLEXITY OF THE CASES HANDLED BY THE PUBLIC DEFENDERS AND PANEL ATTORNEYS ALSO CONTRIBUTES TO THE INCREASE IN AVERAGE CASE COST.

AS THE RESULT OF A RECENT GAO REPORT WHICH ADDRESSED CERTAIN INCONSISTENCIES IN DETERMINING THE ELIGIBILITY OF DEFENDANTS FOR THE APPOINTMENT OF COUNSEL, THE ADMINISTRATIVE OFFICE WILL INITIATE A REVIEW OF ELIGIBILITY DETERMINATIONS AND REIMBURSEMENT PRACTICES IN THE APPOINTMENT OF COUNSEL. FOLLOWING THE STUDY, APPROPRIATE

RECOMMENDATIONS CONCERNING IMPROVING ELIGIBILITY AND REIMBURSEMENT GUIDELINES AND CONTROLS WILL BE PRESENTED TO THE JUDICIAL CONFERENCE.

FEES OF JURORS AND COMMISSIONERS

BUDGETARY INCREASES IN THE APPROPRIATION "FEES OF JURORS AND COMMISSIONERS" ARE THE RESULT OF SOME ADJUSTMENTS UPWARD IN THE COSTS OF SUBSISTENCE AND OTHER SERVICES PROVIDED JURORS. IN ADDITION, WE ARE PROJECTING A SLIGHT INCREASE (APPROXIMATELY 2 PERCENT) IN PETIT JURY ACTIVITY IN FISCAL YEAR 1984.

WE ARE CONTINUING TO REDUCE THE COSTS OF THE JURY SYSTEM AND IMPROVE UTILIZATION OF JURORS IN THE FEDERAL COURTS. THE OVERALL JUROR UTILIZATION INDEX HAS IMPROVED EACH YEAR SINCE 1979. AS REPORTED LAST YEAR, MOST CIRCUITS HAVE CONDUCTED JUROR UTILIZATION EDUCATION PROGRAMS FOR THEIR JUDGES. THE FEDERAL JUDICIAL CENTER, THIS PAST SUMMER, HELD JURY UTILIZATION SEMINARS FOR DEPUTY CLERKS. THE ADMINISTRATIVE OFFICE HAS REVISED ITS METHOD OF COMPUTING JUROR STATISTICS TO PROVIDE MORE MEANINGFUL FIRST-DAY INFORMATION. IN ADDITION, THE ADMINISTRATIVE OFFICE REGULARLY GATHERS, ANALYZES, AND REPORTS ON INDIVIDUAL DISTRICT COURT JURY MANAGEMENT PRACTICES. THIS INFORMATION IS THE BASIS FOR PLANNING ADDITIONAL SEMINARS AND PROVIDING TECHNICAL ASSISTANCE TO THE COURTS.

EXPENSES OF OPERATION AND MAINTENANCE OF THE COURTS

EXCLUDING THE ADJUSTMENTS TO THE BASE APPROPRIATION FOR UNCONTROLLABLE INFLATIONARY CHANGES, WE ARE REQUESTING AN INCREASE OF $8,267,000 OF WHICH $4,420,000 REPRESENTS EXPENSES RELATING TO THE REQUESTS FOR NEW PERSONNEL UNDER THE HEADING "SALARIES OF SUPPORTING PERSONNEL," $2,987,000 IS FOR EXISTING PROGRAMS AND ACTIVITIES, $660,000 IS FOR THE PURCHASE OF ELECTRONIC SOUND RECORDING EQUIPMENT AND RELATED MAINTENANCE COSTS, AND $200,000 IS FOR CON-

TINUING THE COURT-ANNEXED ARBITRATION PILOT PROGRAMS CURRENTLY OPERATING IN THE EASTERN DISTRICT OF PENNSYLVANIA AND THE NORTHERN DISTRICT OF CALIFORNIA.

AS DIRECTED BY CONGRESS IN PUBLIC LAW 97-164, THE ADMINISTRATIVE OFFICE AND THE FEDERAL JUDICIAL CENTER ARE CONDUCTING AN EXPERIMENT IN 12 DISTRICT COURTS TO DETERMINE WHETHER ELECTRONIC SOUND RECORDING CAN PROVIDE AN ACCURATE AND TIMELY RECORD AND TRANSCRIPT OF PROCEEDINGS. THE EXPERIMENT IS ALSO DESIGNED TO EVALUATE THE COST SAVINGS WHICH MAY BE ACHIEVED WITH AN ELECTRONIC SOUND RECORDING SYSTEM. THE JUDICIAL CONFERENCE WILL CONSIDER THE RESULTS OBTAINED BY THIS EXPERIMENT AND LATER THIS YEAR WILL DECIDE, AS PROVIDED IN THE LEGISLATION, WHETHER ELECTRONIC SOUND RECORDING CAN BE USED AS AN OFFICIAL COURT REPORTING METHOD IN LIEU OF THE USE OF LIVE COURT REPORTERS. IF THE JUDICIAL CONFERENCE ISSUES GUIDELINES IMPLEMENTING ELECTRONIC SOUND RECORDING, IT IS ESTIMATED THAT $600,000 WILL BE NECESSARY IN FISCAL YEAR 1984 TO PROVIDE EQUIPMENT FOR DISTRICT JUDGES WHO ELECT TO EMPLOY THAT SYSTEM. I HASTEN TO ADD, MR. CHAIRMAN, THAT THIS EXPENDITURE IS EXPECTED TO ULTIMATELY RESULT IN SAVINGS IN SALARIES OF COURT REPORTERS AND THE COST OF CONTRACT REPORTERS.

BANKRUPTCY COURTS, SALARIES AND EXPENSES

THE NUMBER OF BANKRUPTCIES REACHED A NEW HIGH IN FISCAL YEAR 1982. ESTATE FILINGS FOR THE YEAR TOTALED 536,419, AN INCREASE OF 14,782 OR 3 PERCENT OVER FISCAL YEAR 1981. ALTHOUGH THIS WAS A MODEST INCREASE IN ITSELF, BUSINESS FILINGS ROSE 34 PERCENT DURING THAT SAME PERIOD AND CORRESPONDING INCREASES WERE ALSO REGISTERED IN ADVERSARY PROCEEDINGS AND THE NUMBER OF CASES PENDING AT THE END OF THE YEAR.

OUR LATEST DATA TENDS TO CONFIRM THAT WE HAVE REACHED A LEVELING OFF POINT FOR NONBUSINESS FILINGS. HOWEVER, BUSINESS FILINGS

AS WELL AS ADVERSARY PROCEEDINGS CONTINUE TO ESCALATE. UNDERSTANDABLY, THIS SITUATION IS VIEWED WITH CONSIDERABLE ALARM BY THE BANKRUPTCY COURTS, PARTICULARLY IN VIEW OF THE SUBSTANTIAL ADDITIONAL WORKLOAD REPRESENTED BY THE LARGE NUMBER OF CREDITORS WHICH MAY BE INVOLVED IN BUSINESS BANKRUPTCIES. IN ORDER TO ACCOMMODATE THIS INCREASED WORKLOAD, FUNDING FOR 160 TEMPORARY DEPUTY CLERKS HAS BEEN REQUESTED. THIS STAFFING REQUEST IS BASED ON THE NEED FOR TEMPORARY PERSONNEL PRIMARILY TO ASSIST IN THE CLOSING OF CASES. THE SAME POSITIONS WERE INCLUDED IN OUR FISCAL YEAR 1983 REQUEST BUT WERE DENIED. THESE DEPUTY CLERKS ARE REQUIRED TO PERFORM THE CLERICAL FUNCTION OF PROCESSING THE CASES AND THIS WORKLOAD MUST BE PERFORMED IRRESPECTIVE OF ANY ACTION CONGRESS MAY TAKE TO RESOLVE THE JURISDICTIONAL ISSUE.

PROVISION HAS BEEN MADE FOR 304 FULL-TIME ARTICLE ONE BANKRUPTCY JUDGESHIPS CONSISTENT WITH THE RECOMMENDATIONS OF THE JUDICIAL CONFERENCE OF THE UNITED STATES PURSUANT TO THE BANKRUPTCY REFORM ACT OF 1978 (PL 95-598). OF THIS NUMBER, SEVEN POSITIONS WILL BE CONVERTED FROM PART-TIME TO FULL-TIME, AND 75 NEW POSITIONS WILL BE ESTABLISHED. THE NEW JUDGESHIPS ARE SUBJECT TO THE APPROVAL OF CONGRESS AND, IN ANY EVENT, WILL NOT BE ESTABLISHED UNTIL APRIL 1, 1984. OUR BUDGET ESTIMATE IS BASED ON THE ASSUMPTION THAT ONLY 35 OF THE 75 NEW JUDGESHIPS, AS DISTINGUISHED FROM THE CONVERSION OF PART-TIME POSITIONS TO FULL-TIME, WOULD BE FILLED BY THE END OF THE FISCAL YEAR. THE PRESENT JUDGES WILL CONTINUE TO SERVE UNTIL THE NEW JUDGES ARE APPOINTED.

MR. CHAIRMAN, THIS REQUEST WILL HAVE TO BE REEXAMINED WHEN CONGRESS ENACTS LEGISLATION TO RESOLVE JURISDICTIONAL ISSUES RESULTING FROM THE SUPREME COURT'S RULING IN THE NORTHERN PIPELINE CASE.

SERVICES FOR DRUG DEPENDENT OFFENDERS

THE JUDICIARY IS CONTINUING TO PROVIDE SERVICES AND SPECIAL SUPERVISION TO DRUG DEPENDENT OFFENDERS UNDER THE AUTHORITY OF THE CONTINUING RESOLUTIONS FOR FISCAL YEAR 1983. FOR FISCAL YEAR 1984, THE SUM OF $5,000,000 IS REQUESTED TO PROVIDE DRUG AFTERCARE TREATMENT TO 5,300 DRUG DEPENDENT OFFENDERS IN ANTICIPATION OF CONGRESS ENACTING THE REQUIRED AUTHORIZATION. AS OF MARCH 1982, A TOTAL OF 4,705 PERSONS WERE RECEIVING TREATMENT.

SPACE AND FACILITIES

THE BUDGET ESTIMATE FOR 1984 IS $170,423,000, WHICH REPRESENTS AN INCREASE OF $38,011,000 OVER THE AMOUNT APPROPRIATED FOR 1983. APPROXIMATELY THREE-FOURTHS OF THE INCREASE, $28,073,000, IS REQUIRED TO MAINTAIN OUR OPERATIONS AT THEIR PRESENTLY APPROVED LEVELS.

PART OF THE ESTIMATE, $8,819,000, IS RELATED TO SPACE AND FURNITURE COSTS FOR THE NEW POSITIONS INCLUDED IN OUR BUDGET REQUESTS FOR THE COURTS OF APPEALS, DISTRICT COURTS, AND BANKRUPTCY COURTS. THE REMAINING $1,119,000 IS FOR RENT AND FURNISHINGS REQUIRED INCIDENT TO THE OCCUPANCY OF NEW BUILDINGS AND NEWLY CONSTRUCTED AND REMODELED FACILITIES INCLUDING LIBRARIES.

MR. CHAIRMAN, WE HAVE FELT FOR SOME TIME THAT THE STANDARD LEVEL USER CHARGES (SLUC) OF GSA ARE EXCESSIVE. AS YOU KNOW, THE CONGRESS DID NOT ALLOW ANY INCREASE IN THE SLUC RATES FOR 1983. DESPITE THIS ACTION, GSA HAS PROPOSED THAT THE 1984 SLUC RATES BE SUBSTANTIALLY INCREASED. $31,574,000 IS EARMARKED TO PAY GSA FOR RENTAL INCREASES FOR SPACE CURRENTLY OCCUPIED BY THE COURTS. THESE INCREASES COME AT A TIME WHEN GSA IS REDUCING BUILDING SERVICES AND OTHER SPACE SUPPORT FUNCTIONS THROUGHOUT THE COURT SYSTEM. IT APPEARS CONTRARY TO THE CONGRESSIONAL BUDGET DECISION.

I AM ATTACHING A LETTER DATED FEBRUARY 11, 1983 FROM GSA REGION FIVE TO THE ADMINISTRATIVE OFFICE INFORMING THE JUDICIARY THAT GSA HAS INSUFFICIENT FUNDS TO ACCOMPLISH A NUMBER OF "INITIAL SPACE ALTERATIONS (ISA) AND/OR RELOCATION PROJECTS" INVOLVING THE EXPANSION OF OR ACQUISITION OF NEW SPACE FOR THE COURTS. GSA IS ASKING THE JUDICIARY TO FUND THESE PROJECTS OR CANCEL THEM.

TO FURTHER COMPOUND OUR PROBLEM, GSA IS REDUCING THE STANDARD LEVEL OF SECURITY WITHOUT A CORRESPONDING REDUCTION IN RENT. WE HAVE BEEN INFORMED THAT ALL STANDARD LEVEL CONTRACT GUARD POSITIONS WILL BE ELIMINATED BY THE END OF FISCAL YEAR 1983 AND THAT WE MAY REPLACE THESE CONTRACT GUARD POSITIONS AT OUR OWN EXPENSE. HOWEVER, GSA HAS NOT INFORMED US OF ANY CORRESPONDING REDUCTION IN OUR SLUC CHARGE.

DOES CONGRESS INTEND FOR THE JUDICIARY TO FUND SHORTFALLS IN THE GSA BUDGET? SOME SOLUTION MUST BE REACHED. CONGRESS MAY CHOOSE TO AUTHORIZE THE JUDICIARY TO ACCOMPLISH INITIAL SPACE ALTERATIONS AND RELOCATIONS AND PROVIDE NECESSARY FUNDING. IT MAY ALSO DIRECT GSA TO REDUCE ITS RENTAL RATES IN LINE WITH ITS REDUCTIONS IN BUILDING SERVICES, SECURITY SERVICES AND OTHER SUPPORT SERVICES. WE DO NO MORE THAN POINT OUT THAT THE DETERIORATION OF GSA SERVICES IN THE FACE OF RISING RATES IMPACTS OUR NEED FOR SPACE AND FUNDING. THE JUDICIARY REQUESTS CONGRESS TO LOOK CLOSELY AT THE ENTIRE GSA SPACE PROGRAM.

COURT SECURITY

IN FISCAL YEAR 1983, THE INITIAL YEAR OF OUR FIVE-YEAR JUDICIAL SECURITY PROGRAM, $12,000,000 WAS MADE AVAILABLE TO PROVIDE FOR CONTRACT GUARD SERVICES AND FOR THE PURCHASE, INSTALLATION, AND MAINTENANCE OF SECURITY EQUIPMENT AT APPROXIMATELY 160 OF THE 508 JUDICIAL FACILITIES. THE SUM OF $16,250,000 IS REQUESTED FOR FISCAL YEAR 1984 TO CONTINUE THIS PROGRAM INTO ITS SECOND YEAR, OF WHICH $3,290,000

IS TO UPGRADE THE SECURITY SYSTEMS AT THE 100 JUDICIAL FACILITIES WHICH NEED IT MOST.

WE HAVE DRAFTED A DETAILED MEMORANDUM OF UNDERSTANDING GOVERNING THE USE OF THESE FUNDS WHICH IS BEING REVIEWED BY THE UNITED STATES MARSHALS SERVICE (USMS). MANY DISTRICT COURTS HAVE ALREADY ESTABLISHED SECURITY COMMITTEES UNDER THE DIRECTION OF THE LOCAL U.S. MARSHALS AND HAVE DEVELOPED COMPREHENSIVE SECURITY PLANS FOR THEIR COURTS. THESE PLANS WILL ASSIST THE USMS IN SETTING PRIORITIES FOR THE EXPENDITURE OF FUNDS FROM THE APPROPRIATION AMONG THE DIFFERENT COURTS.

MR. CHAIRMAN, OUR BUDGET REQUIREMENTS FOR FISCAL YEAR 1984 ESSENTIALLY PROVIDE FOR INCREASED WORKLOAD DUE TO RISING CASELOAD AND THE IMPACT OF NEW LEGISLATION ON THE COURTS. WE HOPE YOU WILL FIND OUR REQUESTS ACCURATE AND CONSERVATIVE. I WANT TO THANK YOU AND YOUR COMMITTEE FOR THE CONSIDERATION AND RESPONSE YOU HAVE ALWAYS GIVEN TO OUR NEEDS.

COMPARATIVE WORKLOAD DATA
FISCAL YEARS 1977 AND 1982

	F.Y. 1977	F.Y. 1982	% Change
COURTS OF APPEALS:			
Filings	19,011	27,768	+ 46.0%
Terminations	17,808	28,159	+ 58.1%
Pending, End of Year	15,901	21,774	+ 36.9%
DISTRICT COURTS:			
Civil Cases			
Filed	133,929	212,559	+ 58.7%
Terminated	118,711	196,120	+ 65.2%
Pending, End of Year	159,802	211,964	+ 32.6%
Criminal Cases			
Filed	39,464	33,097	- 16.1%
Terminated	42,575	31,877	- 25.1%
Pending, End of Year	15,427	17,671	+ 14.5%
Totals			
Filed	173,393	245,656	+ 41.7%
Terminated	161,286	227,997	+ 41.4%
Pending, End of Year	175,229	229,635	+ 31.0%
BANKRUPTCY ESTATES:			
Filed	212,669	536,419	+152.2%
Terminated	226,729	434,932	+ 91.8%
Pending, End of Year	255,122	756,553	+196.5%
Adversary Proceedings*	.....	149,264	.....
MAGISTRATES:			
Trial Jurisdiction Cases (Misdemeanors)	103,061**	86,725**	- 15.9%
Preliminary Criminal Proceedings	83,357**	69,500**	- 16.6%
Other Criminal and Civil Matters	97,318**	169,584**	+ 74.3%
PROBATION:			
Persons Received for Supervision	37,675	32,048	- 14.9%
Persons Under Supervision, End of Year	65,107	59,009	- 9.4%
Presentence Investigations	29,258	28,086	- 4.0%
Other Investigations	72,999	88,743	+ 21.6%
Petitions for Naturalization	152,247**	158,146**	+ 3.9%
Aliens Naturalized	140,859**	141,252**	+ .3%

*No adversary proceedings filed prior to fiscal year 1980.
**Data for the year ended June 30.

11 FEB 1983

Mr. Louis J. Komondy
Chief, Space & Facilities Branch
Administrative Office of the U.S. Courts
Washington, D. C. 20544

Dear Mr. Komondy:

This refers to the numerous Initial Space Alteration (ISA) and/or relocation projects (projects amounting to but not exceeding $100,000) which have been submitted to us by your office involving expansion and/or new space for the Courts and Court-related agencies in various locations in Region 5.

For your information the total cost to accomplish these many Court and Court-related projects is approximately $535,000. Currently, we have less than $250,000 in our ISA budget for the remainder of Fiscal Year (FY) 1983 to accomplish all agency projects of $100,000 or less in our region. Furthermore, we do not anticipate any significant increase in our ISA budget for FY 1984 which would alleviate our funding problem.

As a result, we will require your cooperation in funding for these Court projects or it will be necessary to cancel same and return them to you for resubmission at a more appropriate time.

Should you require a list of the projects for which we have no funds or will have difficulty in funding in total, please let us know.

Sincerely,

Robert E. Ward

ROBERT E. WARD
Director, Real Estate Division

ADDENDUM TO JUDGE CLARK'S STATEMENT

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

LAST WEEK THE JUDICIARY TRANSMITTED CONCURRENTLY TO THIS COMMITTEE AND THE OFFICE OF MANAGEMENT AND BUDGET A BUDGET AMENDMENT TO FUND THE FIXED-POST GUARD SERVICE THAT THE GENERAL SERVICES ADMINISTRATION (GSA) IS DISCONTINUING THROUGHOUT THE COUNTRY. HERETOFORE, THESE SERVICES WERE FUNDED FROM APPROPRIATIONS AVAILABLE TO THE GSA. THE JUDICIARY WAS OFFICIALLY NOTIFIED OF THIS ACTION AS RESULT OF A RULE CHANGE PUBLISHED IN THE FEDERAL REGISTER DATED DECEMBER 27, 1982, AND MORE RECENTLY IN A LETTER FROM RICHARD O. HAASE, COMMISSIONER, PUBLIC BUILDINGS SERVICE. THE CHANGE REDEFINES WHAT STANDARD LEVEL OF PROTECTION WILL BE PROVIDED FROM THE RENTAL FUNDS PAID TO GSA. ESSENTIALLY, ALL AGENCIES WILL RECEIVE THE SAME LEVEL OF PROTECTION REGARDLESS OF THEIR MISSION. THE NEW NATIONWIDE PROTECTION OPERATIONS PLAN IS KNOWN AS THE FEDERAL PROTECTIVE SERVICE RECOVERY PLAN. AS A RESULT OF THIS PLAN, ALL STATIONARY, FIXED-POST FEDERAL PROTECTIVE SERVICE OFFICERS AND CONTRACT GUARDS THAT WERE FUNDED BY GSA WILL BE REMOVED BY THE END OF FISCAL YEAR 1983.

WHEN THE JUDICIARY WAS INITIALLY INFORMED THAT THESE SERVICES WOULD BE ELIMINATED IN 1983, WE ASKED GSA IF WE WOULD RECEIVE A REDUCTION IN RENTAL CHARGES, AS WAS PROVIDED IN FISCAL YEAR 1982, SO THAT WE COULD FUND, ON A REIMBURSABLE BASIS, THOSE GUARDS THAT WERE REMOVED. GSA INFORMED US THAT THE MONEY SAVED WOULD BE "USED TO UPGRADE SECURITY SYSTEMS AND INCREASED LAW ENFORCEMENT CAPABILITY, ULTIMATELY ENHANCING, RATHER THAN DECREASING, THE DEGREE OF PROTECTION." THIS MAY BE THE CASE FOR THOSE AGENCIES THAT WERE NOT RECEIVING FIXED-POST PROTECTION, BUT IT CERTAINLY WILL REDUCE THE LEVEL OF PROTECTION TO THE JUDICIARY THAT IS RECEIVING FIXED-POST PROTECTION IN CERTAIN COURT FACILITIES.

AT THE TIME OUR BUDGET WAS TRANSMITTED TO THE CONGRESS, THE JUDICIARY DID NOT KNOW THE DOLLAR IMPACT OF FUNDING THESE FIXED-POST POSITIONS. ON APRIL 6, WE MET WITH GSA TO DETERMINE HOW MANY GUARD YEARS PREVIOUSLY FUNDED BY GSA WOULD BE TERMINATED. THE FIGURE PROVIDED BY GSA WAS 95 GUARD YEARS WHICH THE JUDICIARY ESTIMATES WILL COST $1.3 MILLION IN FISCAL YEAR 1984. THIS FIGURE IS BASED ON THE COST OF THE CONTRACTS WITH PROTECTION AGENCIES CURRENTLY PROVIDING THE SERVICE. IT DOES NOT TAKE INTO CONSIDERATION ANY CONTRIBUTIONS THAT OTHER FEDERAL AGENCIES HOUSED IN COURT BUILDINGS MAY AGREE TO PAY. OTHER AGENCIES HAVE EXPRESSED AN INTEREST IN MAINTAINING THE FIXED-POSTS AND HAVE AGREED TO SHARE THE COST. THE EXACT SAVINGS WILL NOT BE KNOWN FOR SOME TIME. IF ANY PART OF THESE FUNDS ARE NOT USED FOR THIS PURPOSE, THEY WILL BE RETURNED TO THE TREASURY.

THE AMENDMENT SUBMITTED WOULD PROVIDE FUNDING TO MAINTAIN THE SAME LEVEL OF FIXED-POSTS THAT WILL BE ELIMINATED BY GSA. IN ADDITION, THE JUDICIARY IS REQUESTING THE TRANSFER OF $1,761,000 THAT IS CURRENTLY IN THE APPROPRIATION "SPACE AND FACILITIES" TO THE APPROPRIATION "COURT SECURITY." THE $1,761,000 IS BEING USED TO FUND OVERTIME SECURITY SERVICES NOT INCLUDED IN THE STANDARD LEVEL SERVICE PROVIDED BY GSA. THE TRANSFER WILL CONSOLIDATE ALL FUNDS FOR COURT SECURITY IN ONE ACCOUNT. IT IS CONTEMPLATED THAT THE JUDICIARY WILL CONTINUE TO ADMINISTER THE FUNDS FOR BUILDING SECURITY THROUGH GSA CONTRACT GUARDS UNTIL SUCH TIME AS THE MARSHALS SERVICE IS PREPARED TO ACCEPT THIS RESPONSIBILITY THROUGH THE USE OF GUARDS UNDER CONTRACT TO THE UNITED STATES MARSHALS SERVICE.

Prepared Statement of William E. Foley
Director
Administrative Office of the United States Courts

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

THANK YOU FOR THIS OPPORTUNITY TO APPEAR BEFORE YOU IN SUPPORT OF THE BUDGET REQUESTS FOR THE ADMINISTRATIVE OFFICE FOR FISCAL YEAR 1984. OUR BUDGET ESTIMATE IS $27,625,000, WHICH INCLUDES AN AMENDMENT IN THE AMOUNT OF $75,000. EXCLUDING ADJUSTMENTS TO THE BASE AND THE MANDATORY INCREASES, WE ARE REQUESTING AN INCREASE OF $635,000 OR 2.6 PERCENT OVER FISCAL YEAR 1983. WE HAVE ASKED FOR 18 NEW POSITIONS: 10 POSITIONS FOR THE EXPANSION OF AUTOMATED SYSTEMS IN THE COURTS, 6 POSITIONS REQUIRED INCIDENT TO EXPANSION OF THE PRETRIAL SERVICES PROGRAM, AN AUDITOR FOR THE STATUTORY COMMITTEE ON JUDICIAL ETHICS, AND A COURT SECURITY LIAISON OFFICER. THESE REQUESTS REPRESENT AN INCREASE IN PERSONNEL OF 3.4 PERCENT OVER 1983. THE BUDGET JUSTIFICATIONS SUBMITTED TO YOUR COMMITTEE DESCRIBE IN DETAIL THE PROGRAMS FOR WHICH THE ADDITIONAL FUNDS AND PERSONNEL ARE BEING REQUESTED.

THE PRIMARY RESPONSIBILITY OF THE ADMINISTRATIVE OFFICE IS TO PROVIDE MANAGEMENT SUPPORT AND POLICY GUIDANCE TO THE COURTS. WE ARE FINDING OUR ADMINISTRATIVE SUPPORT ROLE EXPANDING TO ENCOMPASS NOT ONLY PERSONNEL, PAYROLL, PROCUREMENT, FINANCIAL AND LIKE ACTIVITIES, BUT TO INCLUDE ALSO MORE SPECIALIZED AND HIGHLY TECHNICAL ASSISTANCE TO THE COURTS.

IF I MAY, MR. CHAIRMAN, I WOULD LIKE TO CITE A FEW EXAMPLES OF THIS EXPANDED ROLE:

PROBATION: THE PROBATION DIVISION IS COOPERATING WITH THE DEPARTMENT OF JUSTICE AND OTHER INTERESTED AGENCIES IN ARRANGING FOR THE SUPERVISION OF ABOUT 300 PROTECTED WITNESSES BY PROBATION OFFICERS. AS

YOU MAY BE AWARE, THE CONDITIONS IMPOSED BY THE COURT OR THE PAROLE COMMISSION TO ENSURE THAT PROTECTION OF THESE WITNESSES IS NOT COMPROMISED REQUIRES THAT THE ADMINISTRATIVE OFFICE EXERCISE A LEADERSHIP ROLE IN COORDINATING THE INTERESTS OF THE DIFFERENT AGENCIES INVOLVED IN THE WITNESS PROGRAM.

CLERKS: SEVERAL PROJECTS AIMED AT IMPROVING THE MANAGEMENT PRACTICES OF JUDGES AND CLERKS OF COURT ARE BEING DIRECTED BY THE CLERKS DIVISION, PARTICULARLY IN THE AREAS OF JUROR UTILIZATION AND CIVIL CASE MANAGEMENT. THESE ACTIVITIES INCLUDE COLLECTING AND MONITORING JUROR UTILIZATION PROCEDURES IN THE COURTS, PROVIDING ON-SITE MANAGEMENT ASSISTANCE TO IMPROVE JUROR UTILIZATION, AND PLANNING AND PARTICIPATING IN WORKSHOPS WHICH PROVIDE A FRAMEWORK FOR DEVELOPING EFFECTIVE CASE MANAGEMENT SYSTEMS.

LIBRARY SERVICES: THE ADMINISTRATIVE SERVICES DIVISION IS IN THE THIRD YEAR OF REORGANIZING THE JUDICIARY'S LIBRARY PROGRAM WHICH PROVIDES JUDGES WITH MORE AND BETTER LIBRARY SERVICES WHILE REDUCING DUPLICATE AND EXCESSIVE LEGAL RESEARCH MATERIAL.

SPACE UTILIZATION: THE ADMINISTRATIVE OFFICE CONDUCTS SPACE UTILIZATION SURVEYS WITH A VIEW TO REDUCING OR RELEASING UNDERUTILIZED SPACE, AND ASSISTS COURT PERSONNEL IN THE ACTUAL DESIGN AND CONFIGURATION OF NEW OFFICES IN AN ATTEMPT TO MAKE THE MOST ECONOMICAL USE OF ASSIGNED SPACE.

OFFICE SYSTEMS: THE ADMINISTRATIVE SERVICES DIVISION EMPLOYS A VARIETY OF METHODS TO REDUCE COURT OPERATING COSTS AND TO INCREASE EFFICIENCY AND EFFECTIVENESS, SUCH AS THE IMPLEMENTATION OF A WORD PROCESSING SYSTEM WHICH IS TAILORED BOTH TO AN INDIVIDUAL COURT'S CLERICAL NEEDS AND TO PROVIDING OPINION CIRCULATION AND ELECTRONIC MAIL CAPABILITIES.

STATISTICAL ANALYSIS AND REVIEW: TWO YEARS AGO THIS DIVISION

PUBLISHED THE FIRST "SENTENCE IMPOSED CHART" IN AN ATTEMPT TO MEET A PERCEIVED NEED FOR MORE PRECISE SENTENCING INFORMATION. THIS PROJECT WILL BE FOLLOWED SHORTLY BY A MUCH EXPANDED SENTENCING DATA PROGRAM TO PROVIDE FEDERAL JUDGES, MAGISTRATES, PROBATION OFFICERS, PUBLIC DEFENDERS, U.S. ATTORNEYS, AND THE JUDICIARY COMMITTEES OF CONGRESS WITH EVEN MORE COMPREHENSIVE OFFENDER AND SENTENCING STATISTICS.

BANKRUPTCY: THE UNITED STATES SUPREME COURT RECENTLY HELD THAT CERTAIN POWERS ASSIGNED TO BANKRUPTCY JUDGES COULD BE EXERCISED CONSTITUTIONALLY ONLY BY ARTICLE III JUDGES. THE BANKRUPTCY DIVISION ASSISTED IN DEVELOPING INTERIM RULES BY WHICH DISTRICT COURTS MAY DELEGATE MANY OF THEIR BANKRUPTCY POWERS TO BANKRUPTCY JUDGES.

CRIMINAL JUSTICE ACT: OUR CRIMINAL JUSTICE ACT DIVISION WAS ASKED BY THE DEPARTMENT OF JUSTICE TO WORK WITH IT ON THE PRISONER TRANSFER PROGRAM TO INSURE THE PROTECTION OF RIGHTS OF THOSE PRISONERS WHO ARE UNITED STATES CITIZENS BEING TRANSFERRED FROM PRISONS IN OTHER COUNTRIES TO THE UNITED STATES.

MAGISTRATES: A PRELIMINARY GENERAL ACCOUNTING OFFICE REPORT ON THE MAGISTRATES SYSTEM COMMENDS THE IMPORTANT ROLE ASSUMED BY FEDERAL MAGISTRATES IN THE JUDICIARY, AND ENCOURAGES QUALIFIED DISTRICT COURTS TO REQUEST ADDITIONAL FULL-TIME MAGISTRATE POSITIONS. LAST YEAR THE DIVISION OF MAGISTRATES PREPARED FORMAL SURVEY REPORTS ON THE NUMBER AND LOCATIONS OF MAGISTRATES POSITIONS IN 41 DISTRICTS, AND ANTICIPATES CONDUCTING A SIMILAR REVIEW IN APPROXIMATELY 50 DISTRICTS BY LATE SPRING OF THIS YEAR.

MANAGEMENT REVIEW: THE OFFICE OF MANAGEMENT REVIEW CONDUCTS MANAGEMENT AUDITS AND FINANCIAL AUDITS OF THE 200 COURTS WHICH MAKE UP THE CIRCUIT, DISTRICT, AND BANKRUPTCY COURT SYSTEM. DURING FISCAL YEAR 1983, THE OFFICE HAS PRODUCED AN AVERAGE OF 10 AUDIT REPORTS PER MONTH.

PERSONNEL: THE DIVISION OF PERSONNEL HAS JUST REVISED THE JUDICIARY SALARY PLAN AS IT APPLIES TO THE DISTRICT COURTS AND COMPLETED THE DEVELOPMENT OF A JUDICIARY SALARY PLAN FOR THE CIRCUIT COURTS WHERE IT WAS HERETOFORE NONEXISTENT.

FINANCIAL MANAGEMENT: THE FINANCIAL MANAGEMENT DIVISION HAS RECENTLY UPGRADED ITS ACCOUNTING SYSTEM TO ENABLE IT TO REPORT ON EXPENDITURES BY EACH COURT, AND BY PROGRAM WITHIN EACH COURT, THEREBY PROVIDING COURT MANAGERS, PARTICULARLY THE CHIEF JUDGES, THE CIRCUIT AND DISTRICT EXECUTIVES, THE CLERKS OF COURT AND THE CHIEF PROBATION OFFICERS WITH INFORMATION NECESSARY TO ACHIEVE IMPROVED CONTROL OVER RESOURCE EXPENDITURES.

AUTOMATED DATA PROCESSING: THE SYSTEMS SERVICES DIVISION IS CURRENTLY WORKING TO AUTOMATE BANKRUPTCY CLAIMS NOTICING AND WILL INSTALL THIS SYSTEM IN SEVEN LARGE BANKRUPTCY COURTS THIS YEAR. EXPANSION OF THE SYSTEM WILL CONTINUE IN FISCAL YEAR 1984, AS POINTED OUT IN OUR PROGRAM REQUEST WHICH FOLLOWS.

THE DIVISION HAS EXPANDED THE AUTOMATION OF THE CENTRAL VIOLATIONS BUREAU (CVB) TO EIGHT SELECTED COURTS AND THE SYSTEM NOW PROCESSES 75 PERCENT OF THE TOTAL PETTY OFFENSE VIOLATION NOTICES ISSUED ON FEDERAL PROPERTY.

THE DIVISION ALSO PLANS TO OUTFIT A NUMBER OF SMALL AND MEDIUM COURTS WITH MICROCOMPUTERS INCLUDING WORD PROCESSING SUPPORT FOR THE CLERKS' OFFICES AND A NUMBER OF AUTOMATED SYSTEMS THAT ADDRESS SOME OF THE BASIC CASE MANAGEMENT AND ADMINISTRATIVE NEEDS OF THE COURTS. SPECIFICATIONS HAVE ALREADY BEEN DEVELOPED FOR CIVIL CASE MANAGEMENT, JURY MANAGEMENT, PERSONNEL, AND JUDICIAL STATISTICS REPORTING. THE FEDERAL JUDICIAL CENTER AND THE ADMINISTRATIVE OFFICE HAVE COOPERATED CLOSELY IN THE DEVELOPMENT OF THESE SYSTEMS WHICH WILL GREATLY FACILITATE THE COURTS MANAGEMENT.

THE ADMINISTRATIVE OFFICE IS CONTINUALLY SEEKING WAYS TO REDUCE THE COST OF IMPLEMENTING ALL THESE SYSTEMS. ACTIONS TAKEN THIS YEAR, INCLUDING THE USE OF STORE AND FORWARD EQUIPMENT IN THE COURTS, SELECTION OF THE OPTIMUM BILLING OPTIONS AND PURCHASE OF PREVIOUSLY LEASED EQUIPMENT WILL REDUCE COURTRAN TELECOMMUNICATIONS COSTS IN THE APPROPRIATION ACCOUNT FOR OPERATION AND MAINTENANCE FROM ORIGINAL PROJECTIONS.

MR CHAIRMAN, ONE FINAL ITEM BEFORE I ADDRESS THE SPECIFIC BUDGETARY REQUESTS FOR FISCAL YEAR 1984. THE ADMINISTRATIVE OFFICE CURRENTLY OCCUPIES SPACE AT FIVE DIFFERENT LOCATIONS. THIS DISPERSAL OF PERSONNEL HINDERS OUR ATTEMPTS TO COORDINATE EFFORT BETWEEN THE VARIOUS PROGRAM ELEMENTS. I AM, THEREFORE, PLEASED TO INFORM THE COMMITTEE THAT PLANS ARE NOW BEING FINALIZED TO RELOCATE THE AGENCY TO A CONSOLIDATED SITE DURING THE UPCOMING YEAR. WE ANTICIPATE INCREASED EFFICIENCY AND IMPROVED OPERATIONS ONCE THIS MOVE TAKES PLACE. I AM ALSO DELIGHTED TO INFORM YOU THAT WE EXPECT TO REALIZE A SAVINGS IN OUR SPACE RENTAL CHARGES AS WELL. WE ESTIMATE AN ANNUAL SAVINGS OF NEARLY $200,000. HOWEVER, MUCH OF THE SAVINGS IN 1984 WILL BE NEEDED TO OFFSET COSTS DIRECTLY ASSOCIATED WITH THE MOVE, SUCH AS TENANT ALTERATIONS AND THE ESTABLISHMENT OF A COMMUNICATIONS SYSTEM. SAVINGS IN FUTURE FISCAL YEARS WILL BE REFLECTED IN OUR BUDGET REQUESTS AS THEY ARE REALIZED.

MR. CHAIRMAN, AS BRIEFLY NOTED ABOVE, WE ARE REQUESTING 10 ADDITIONAL POSITIONS TO CONTINUE AUTOMATION. OUR REQUEST INCLUDES 5 POSITIONS AND $155,000 TO EXPAND THE CENTRALIZED AUTOMATION OF BANKRUPTCY CLAIMS NOTICING IN THE COURTS. TO DATE, 2 BANKRUPTCY COURTS ARE USING THE SYSTEM, AND 7 ADDITIONAL COURTS ARE EXPECTED TO BE FULLY AUTOMATED BY THE END OF THE CURRENT FISCAL YEAR. ANOTHER 11 COURTS ARE TO BE PHASED IN DURING THE FISCAL YEAR 1984. THE POSITIONS REQUESTED IN 1984 ARE THOSE THAT WERE DENIED BY THE COMMITTEE LAST YEAR, AND ARE NEEDED TO ALLOW FOR THIS PLANNED EXPANSION. THESE 5 POSITIONS INCLUDE 2 COMPUTER PROGRAMMERS, 1

COMPUTER OPERATOR, AND 2 POSITIONS FOR PRINTING AND DISTRIBUTING OF NOTICES.

THE EXPANSION OF COURTRAN APPLICATIONS TO ADDITIONAL COURTS IN 1984 WILL REQUIRE 3 POSITIONS AND $215,000. YOU WILL RECALL THAT THE FEDERAL JUDICIAL CENTER HAS DEVELOPED THESE SYSTEMS IN SUPPORT OF CASELOAD MANAGEMENT, AND OVER THE PAST TWO YEARS HAS TRANSFERRED FUNDS AND PERSONNEL TO THE ADMINISTRATIVE OFFICE AS THESE SYSTEMS BECAME OPERATIONAL. IN FISCAL YEAR 1984, THE CIVIL CASE MANAGEMENT SYSTEM WILL BE IMPLEMENTED BY THE ADMINISTRATIVE OFFICE, AND 2 COMPUTER PROGRAMMER/ANALYST POSITIONS WILL BE REQUIRED FOR THAT PURPOSE. THE THIRD POSITION REQUESTED FOR COURTRAN IS THAT OF A COORDINATOR WHO WILL BE RESPONSIBLE FOR ASSISTING COURT PERSONNEL IN THE USE OF THE COURTRAN SYSTEMS, AND TO MAINTAIN EFFECTIVE LIAISON BETWEEN THE ADMINISTRATIVE OFFICE AND THE COURTS INVOLVED IN THE PROJECT.

WE ARE ALSO REQUESTING 2 POSITIONS AND THE SUM OF $95,000 TO EXPAND OUR SENTENCING INFORMATION PROGRAM AS MENTIONED AND TO ASSIST WITH THE DEVELOPMENT OF A PROBATION INFORMATION MANAGEMENT SYSTEM WHICH WILL AUTOMATE COLLECTION OF SENTENCING DATA AND INFORMATION ON THE PROGRESS OF INDIVIDUAL OFFENDERS IN VARIOUS REHABILITATIVE SITUATIONS.

WE HAVE INCLUDED A REQUEST FOR $930,000 AS AN ADJUSTMENT TO THE BASE FOR THE REPLACEMENT OF COURTRAN COMPUTER EQUIPMENT. CENTRALIZED AUTOMATED SUPPORT FOR THE UNITED STATES COURTS IS PROVIDED BY THREE LARGE COMPUTERS IN WASHINGTON, D.C. INSTALLED FROM 1976 THROUGH 1978. THESE COMPUTERS ARE OPERATING AT THE OUTER LIMIT OF THEIR CAPACITIES AND HAVE BECOME DIFFICULT AND COSTLY TO MAINTAIN.

THE INCREASING COSTS OF TELECOMMUNICATIONS, THE DECREASING COSTS OF MICRO AND MINI-COMPUTERS, AND THE SUCCESS OF SEVERAL PILOT TESTS OF COMPUTERS LOCATED IN THE COURTS, HAVE PROMPTED THE ADMIN-

ISTRATIVE OFFICE AND THE FEDERAL JUDICIAL CENTER TO RE-EXAMINE THE REPLACEMENT OF THE CENTRALIZED COURTRAN COMPUTERS.

RAPIDLY ADVANCING COMPUTER TECHNOLOGY HAS MADE VERY POWERFUL, RELATIVELY INEXPENSIVE, SMALL COMPUTERS AVAILABLE THAT CAN OPERATE SATISFACTORILY IN INDIVIDUAL COURTS. THE ADMINISTRATIVE OFFICE AND THE CENTER ARE DEVELOPING A FIVE-YEAR AUTOMATION PLAN FOR THE JUDICIARY, WHICH WILL BE BASED UPON PLACING COMPUTERS IN THE COURTS TO PROVIDE AUTOMATED SUPPORT FOR CASE, FINANCIAL AND JURY MANAGEMENT. THE DECENTRALIZATION OF AUTOMATED SUPPORT SHOULD RESULT IN IMPROVED SERVICES AND ADDITIONAL CAPABILITIES IN THE COURTS. IT WILL ALSO ALLOW THE ADMINISTRATIVE OFFICE TO REDUCE THE CENTRAL DATA ENTRY OF STATISTICAL AND FINANCIAL DATA FROM THE COURTS AND TO PHASE OUT THE THREE CENTRALIZED COMPUTER SYSTEMS. IF THE DECENTRALIZATION PLAN IS ADOPTED, THE FISCAL YEAR 1984 REQUEST FOR $930,000 WILL BE USED TO EXTEND THE LIVES OF THE CENTRAL COMPUTER BY REPLACING OUTDATED AND PROBLEM-PLAGUED CORE MEMORY AND DISK DRIVES, PENDING THE TRANSITION TO DECENTRALIZED COMPUTERS.

THE ADMINISTRATIVE OFFICE AND THE CENTER WILL HAVE A CONTINUING REQUIREMENT FOR COMPUTERS TO SUPPORT THE DEVELOPMENT AND MAINTENANCE OF APPLICATIONS SOFTWARE FOR THE DECENTRALIZED COMPUTERS ALLOCATED TO COURTS, AND WILL NEED TO OPERATE CENTRALIZED COMPUTERS TO PROCESS NATIONAL FISCAL, ADMINISTRATIVE, AND STATISTICAL DATA. THE COMPUTERS IN THE COURTS AND THE CENTRAL COMPUTERS WILL BE LINKED BY COMMUNICATIONS TO FACILITATE THE FLOW OF DATA.

MR. CHAIRMAN, OUTSIDE OF THE 10 POSITIONS DESCRIBED ABOVE WHICH ARE ASSOCIATED WITH OUR CONTINUING EFFORTS TO AUTOMATE SYSTEMS IN THE COURTS, WE ARE REQUESTING 2 ADDITIONAL PROGRAM POSITIONS. ONE OF THESE IS AN AUDITOR TO ASSIST THE STATUTORY COMMITTEE ON JUDICIAL ETHICS. THE JUDICIAL ETHICS COMMITTEE IS MANDATED TO REVIEW ALL FINANCIAL DISCLOSURE STATEMENTS SUBMITTED BY JUDICIARY PERSONNEL, AND THE WORK HAS BEEN CONDUCTED IN THE PAST BY THE JUDGES SERVING ON

THE COMMITTEE. THE ADMINISTRATIVE OFFICE HAS PROVIDED TEMPORARY STAFF ASSISTANCE TO THE COMMITTEE IN THE PAST YEAR; HOWEVER, THE VOLUME OF WORK INVOLVED IN THIS REVIEW PROCESS IS SUCH THAT A FULL-TIME AUDITOR IS NEEDED. WE REQUEST THE SUM OF $45,000 TO ESTABLISH THIS POSITION.

WE ARE ALSO REQUESTING FUNDS FOR THE POSITION OF COURT SECURITY LIAISON OFFICER. IN FISCAL YEAR 1983, THE JUDICIARY ESTABLISHED AN APPROPRIATION ACCOUNT FOR COURT SECURITY WHICH IS ADMINISTERED BY THE UNITED STATES MARSHALS SERVICE. THIS ACTION WAS TAKEN TO ENSURE A SUFFICIENT LEVEL OF SECURITY IN COURTROOMS AND IN THE ADJACENT PERIMETER AREAS. IN ORDER TO ASSIST THE COURTS IN COMMUNICATING THEIR NEEDS TO THE MARSHALS SERVICE, WE HAVE DETERMINED THE NEED FOR SUCH A LIAISON POSITION WITHIN THE ADMINISTRATIVE OFFICE. WE HAVE INCLUDED A REQUEST FOR $50,000 TO FUND THIS POSITION.

OUR FINAL REQUEST IS INCLUDED IN A PROGRAM AMENDMENT SUBMITTED TO THE COMMITTEE IN SUPPORT OF THE PRETRIAL SERVICES LEGISLATION WHICH WILL TAKE EFFECTIVE MIDWAY THROUGH FISCAL YEAR 1984. THE IMPACT OF THE EXPANDED PRETRIAL SERVICES PROVIDED BY THE JUDICIARY UPON THE ADMINISTRATIVE OFFICE IS SUCH THAT WE ESTIMATE THE NEED FOR 6 ADDITIONAL POSITIONS, TO BE FUNDED FOR 6 MONTHS IN 1984 AT A COST OF $75,000. PROVISION HAS BEEN MADE FOR A PROGRAM ANALYST, 2 DATA ENTRY CLERKS TO COLLECT AND ANALYZE DATA SUBMITTED FROM THE PRETRIAL SERVICES OFFICES, AND 3 ADMINISTRATIVE SUPPORT POSITIONS REQUIRED FOR THE INCREASED PERSONNEL, PAYROLL, ACCOUNTING, AND CONTRACTING FUNCTIONS GENERATED BY REASON OF THE EXPANSION OF THE PRE-TRIAL SERVICES PROGRAM.

MR. CHAIRMAN, THANK YOU FOR PERMITTING ME TO SET FORTH AND EXPLAIN OUR REQUIREMENTS FOR 1984. FOR THE MOST PART, OUR PROGRAM REQUESTS ARE ASSOCIATED WITH THE EXPANSION OF PROVEN AUTOMATION APPLICATIONS FOR COURT OPERATIONS. WE ANTICIPATE THAT THIS INVESTMENT IN AUTOMATION WILL CONTINUE TO PAY OFF IN PROVIDING IMPROVED SERVICES FOR MANY YEARS. WE FEEL THE COURTS ARE ONLY BEGINNING TO ADVANCE IN THE TECHNOLOGIES THAT HAVE BEEN AVAILABLE FOR SOME TIME. IN CLOSING, I STRESS THAT WHILE A MAJORITY OF THESE INCREASED EXPENDITURES ARE REFLECTED IN THE ADMINISTRATIVE OFFICE BUDGET, THE PRIMARY BENEFICIARIES OF THIS EFFORT WILL BE THE FEDERAL COURTS.

SUMMARY OF NEW PROGRAMS

Senator **Specter**. We would be interested to know, in summary form, the new programs which you are proposing.

Judge **Clark**. Basically, I would say the biggest of those programs involves additional clerks, clerical personnel for the district courts, and for the courts of appeals. This is the largest proportion of the $48 million.

There are some increases in programs for automation which the courts are attempting to move into in order to better their services and provide more information. We have a substantial increase this time due to congressional action in implementing the pretrial services program. As always, the budget request with regard to bankruptcy has experienced a substantial increase because the Bankruptcy Reform Act of 1978 brought so many more bankruptcy cases into the system. In order to handle these cases, we have had to have increases in personnel.

Senator **Specter**. As you outline it, the request is fairly substantial in terms of new programs, and you say that that is principally directed toward increased clerical personnel?

Judge **Clark**. This is the largest in dollar volume, yes, sir.

Senator **Specter**. What do the new clerks do that was not being done last year?

Judge **Clark**. Handle the backlog that has developed in the courts and process the papers that are coming in, Senator.

We are experiencing increases in our workload in every phase of the court's programs, especially in civil filings. These filings never seem to stop increasing. We had a temporary decrease in criminal filings during the tenure of Attorney General Bell because of the prosecution policy that he followed. However that has now reversed itself, not dramatically, but to some extent, and criminal filings are, again, on the increase.

IMPACT OF HIRING FREEZE

Senator **Specter**. If the Congress were to enact a freeze in some of the proposed hirings, how would that leave the courts of appeals?

Judge **Clark**. I don't know exactly. We are going to do the best job we can. It would leave us less able to perform the public service function that we are supposed to perform. People would have to wait to get information from our clerks' offices, the processing of the tremendous volume of paper that I am sure you are familiar with which goes on in the courts would simply have to slow down.

SERVICE PROVIDED BY GSA

Senator **Specter**. Judge Clark, last year the committee decided to freeze standard level user charge fees paid by the courts to the General Services Administration. This was due to the projected imposition of huge rent increases. In your statement this year, you point out that GSA is again proposing large SLUC increases amounting to $31.6 million.

What services does GSA provide in return for these fees?

Judge **Clark**. Mr. Chairman, the fees basically provide the courts with office space, with building services, security services, utilities, air-conditioning, cleaning, and general maintenance.

If I may add, we are concerned because the level of two important aspects of GSA's service is being curtailed. The first and the one that is probably of the greatest interest to the courts is in the area of security. GSA proposes to treat us as it does every other tenant in its buildings. The security needs of the courts are simply not the same as the security needs of the ICC or some of the other Government agencies that are not in as volatile a work environment as the courts are.

Senator **Specter**. Have the security services provided by GSA deteriorated in the course of the past year?

Judge **Clark**. Deteriorated is not the word I would use, Mr. Chairman. It has changed and changed because GSA has made the decision to change it.

They have decided that instead of having a fixed, posted guard station at the perimeter of the buildings that are occupied by court personnel that they will have a roving patrol type of installation. They will increase surveillance cameras and other mechanical means of performing a security service, but they will remove the guard at the desk who mans the magnetometer in some courts, who inspects the persons coming into the building and substitute a guard who would be in a car and would travel to that building and to other buildings in the area and occasionally be there.

It is not so much a deterioration as a determination by GSA to perform a different type of protective service which the courts think is an inadequate level of service for the needs of the judiciary.

LIFE-THREATENING INCIDENTS

Senator **Specter**. Judge Clark, have there been any specific instances in the Federal courts during the course of the past year or beyond which show the need for more security? Have judges been threatened or attacked or in any way harmed?

Judge **Clark**. Mr. Chairman, I know of none, but let me ask Judge Blatt from the district court's standpoint if he knows.

Judge **Blatt**. Mr. Chairman, I know of none. The security system, of course, varies in New York from Charleston. Regarding the actual threats to different judges, some worry about it. I figure if they are going to get me, they will get me. I go to work at night without a security guard. We have GSA security, but I know of none. I just don't know of any.

Judge **Clark**. Mr. Chairman, Mr. O'Toole who is with the U.S. Marshals Service, is present at the hearing this morning, and he indicates that he is familiar with some incidents. If you would like for him to, he will provide them for the record.

Senator **Specter**. Mr. O'Toole, I think that would be appropriate. Would you state your full name and position?

Mr. **O'Toole**. Yes, Mr. Chairman. My name is James E. O'Toole. I am the Chief of the Security Division of the U.S. Marshals Service. The incident that Judge Clark has referred to, one last week, a

U.S. magistrate was confronted by a man wielding a machete at his desk. This is a full-time magistrate.

Senator **Specter**. A U.S. magistrate was confronted by a man wielding a machete?

Mr. **O'Toole**. Yes, sir. He walked into the U.S. courthouse, in this situation, walked directly into the chambers with a machete approximately 2 to 3 feet long and made some demands upon the magistrate. Of course, that was thwarted.

The other situation involved a law clerk to a judge in Omaha, Nebr., within the last 4 months, who was taken hostage in the U.S. courthouse. The negotiations lasted somewhere between 3 to 5 hours, and she was rescued.

Senator **Specter**. Was the person who took her hostage armed?

Mr. **O'Toole**. At the time, he indicated that he had a knife. He had it to the young lady's throat. They were in such a position that we could not determine until we got in the room and into hostage negotiations, and he did, in fact, have a knife at her throat.

Senator **Specter**. What happened as a result of that incident?

Mr. **O'Toole**. Through training, we were able to persuade him to put the knife down and to surrender to a law enforcement authority.

Senator **Specter**. What kind of——

Judge **Clark**. One incident that comes to mind—and I am sorry I didn't remember this when you first asked the question—Judge Mary Lou Robinson, who is in the Northern District of Texas, was handling a criminal case that involved a person who was apparently deranged. The man—he was unarmed—but he was in her courtroom in the course of court proceedings, and during the proceedings, he advanced on the U.S. marshal and said, "You are going to have to shoot me," and the marshal did, eventually, have to shoot the man there in the courtroom in the presence of the judge.

As I say, he just lost his composure and demanded that he was going to take charge there in the courtroom unless the marshal did something about it, and he reacted.

Senator **Specter**. Where did the marshal shoot him?

Judge **Clark**. As far as the part of his body?

I am not sure, sir. All I know is that the man was not killed, he was disabled; a very upsetting experience for Judge Robinson.

Senator **Specter**. Well, the security issue is one that is very serious. How do you protect against these kinds of incidents? Do you have weapons checks for people who come into the courthouse?

PERIMETER SECURITY

Judge **Clark**. We have had at the perimeter, checkpoints. Then in trials, there is a task force report developed by the Attorney General's office which outlines four levels of trials on the predictability of danger, with a civil trial that doesn't involve any sort of expected security risk being the lowest and not requiring the presence of a marshal, to a civil trial that has some incidence of public notoriety to it that may involve some need for control being the next level; and then two degrees of criminal trials. The Marshals Service and the courts, through the agreement of the Attorney

General and the Chief Justice, have asked for cooperation on both sides as far as the furnishing of certain levels of security.

So we are very much cognizant of it, and we are trying to work with the Marshals Service as you know now, Mr. Chairman, to develop a comprehensive security program that the U.S. Marshals Service will guide and direct to replace this makeshift affair that we have had with GSA supplemented by the marshals.

ENHANCEMENT OF SECURITY

Senator **SPECTER**. Is there anything in the budget now which goes to enhance the security system?

Judge **CLARK**. Well, there is a second step in the eventual program of developing the Marshals Service's furnishing of a complete security program to the courts.

Senator **SPECTER**. That is in the budget now?

Judge **CLARK**. Yes, sir.

Until 2 years ago, this program had remained at approximately an $8 million level. Last year, we brought it to $12 million in our budget. This year, we are asking for an increase to $16 million, and we predict that with the Marshals Service furnishing us the figures, that the cost of that program will eventually go to as much as $30 million a year when it is fully implemented.

Senator **SPECTER**. Judge Clark, I would ask you one more question before yielding to Senator Hollings.

IMPACT OF SOCIAL SECURITY LEGISLATION

The social security legislation has already brought a fair number of comments about the consequences to the judicial salaries, especially as it relates to retired judges, as not a direct motivation, because it will reduce their compensation. What kind of a problem do you think is created by that legislation?

Judge **CLARK**. Mr. Chairman, I think that there is a tremendous problem created, not so much by the financial consequences to active judges as with regard to the effect of a tax on work which occurs with regard to retired or senior judges.

The present law of the United States provides that at age 65, with 15 years of service, a judge can "retire" as the statute says. This means that he becomes what is known as a senior judge.

He may choose, then, what level of work he will perform. If he requests to work, he is then designated either by the chief judge of the circuit or by the chief judge of the district, in some cases, to perform judicial services.

The effort of these judges—and I was flipping through to see if I had the exact figure—it is in the number of—it is near the number of 236 judges who are now——

Senator **SPECTER**. 236 retired senior judges?

Judge **CLARK**. Senior judges, yes, sir, who are or will be in retired status who are affected by this proposal.

Senator **SPECTER**. Is there a difference between retired judges and senior judges?

Judge **CLARK**. No, sir, but there is a distinction between retired judges and resigned judges.

At age 70, if you had a minimum of 10 years of judicial service, you can resign from the judiciary, and then you are free to perform any sort of function that you want to. You can go back into private practice, or you can work for a corporation or whatever.

Senator SPECTER. But you can't sit any more on a partial basis?

Judge CLARK. Once you resign, you are out of the business. We have talked about former Judge Bell. When Judge Bell left the judiciary, he resigned. When Judge Webster, who heads the FBI, left the judiciary, he resigned. Until Congress passed enabling legislation, they were not entitled to any compensation, but a retired judge is one who simply either reaches the age of 70 or some age over 65 with the required number of years of service and who then, though he is not an active judge any longer, performs substantial judicial services.

Senator SPECTER. And you say there are about 236 of those judges now?

Judge CLARK. Yes, sir, and there are another 86 judges who are eligible to take senior status or to retire who have not done so.

Senator SPECTER. What impact do you think the new social security law will have on their willingness to continue to perform judicial services?

Judge CLARK. I know from the letters and the calls that have come to Mr. Foley that he has advised me about that the results are going to be somewhat varied. Some judges value the right to work. I guess it's the American work ethic. They know the burden that is on the court system. I think that there are a good number of retired judges who will continue to work regardless of what sort of taxation or impediments are put on them.

But there are a number who would take the position that, "If it is going to cost me money to perform extra services that I don't have to perform, I will not perform them."

IMPACT OF SOCIAL SECURITY TAX ON JUDICIAL SERVICES

Senator SPECTER. Has anybody made the declaration so far that they will not work in light of the new social security tax?

Judge CLARK. Yes, Mr. Chairman. We have just finished the Fifth Circuit Judicial Conference, and our senior judges, both circuit and district judge representatives of that group, were present at the conference.

I can't say that every one of them spoke to me about it, but the majority of them spoke to me about it and indicated—the majority of them that were talking about it, indicated that they would not be willing to work, and this is particularly so with regard to the judges between 65 and 70 years of age, because not only will these judges be required to pay a tax—in other words, what it does, if I may back up just a minute—the existing legislation declares the earnings of those judges or the salaries paid to those judges to be earnings rather than retirement income. By shifting it into this position, it is subject to a tax on social security which amounts to just under $2,500 a year at the present time.

Between the ages of 65 and 70, by classifying their salaries as earnings, you also deprive them of the social security that they have built up. Now, this would affect judges who had been under the social security system as private practitioners and who would be entitled to draw social security at age 65 because of their contributions during practice years.

There are others; for instance, Homer Thornberry on my court, who was a Member of Congress for many years, has a congressional retirement and no social security entitlement. And it will affect him differently. The effects are pretty varied, but in every case of a judge between 65 and 70 years of age, you are also going to deprive him of as much as—what did we say—$12,000 a year in social security income, because his salary that was formerly retirement income will now be counted as earnings to reduce his social security.

So you are going to make that judge pay $15,000 for the privilege of working. It will do either one of two things, and we are not all of one mind about this. I am of the opinion that it is going to discourage judges from taking senior status in that period between 65 and 70 if the law stays as it is now. These are the most valuable senior judges, because they are the ones who are the youngest and the most vigorous and the most likely to carry a full docket load.

Senator SPECTER. How would that work? Would they be in a preferable financial status if, for example, they are 66 and do not take senior status as opposed to taking senior status?

Judge CLARK. No, except preferable in this way, Mr. Chairman. Preferable in the sense that if they become 66 and do not take senior status, they continue to work, they will have to pay this tax because they will be under the social security system, and their earnings will keep them from drawing. All I say to you is that Congress should repeal this classification of their earnings so that they can retire and make room for another active judge to be appointed to that court and increase the number of judges.

Senator SPECTER. I see the motivation for them to become senior judges to get another judge, but on the narrow question as to whether their financial situation would be any different, it would not be if——

Judge CLARK. Unless you change the law.

Senator SPECTER. Right, but they will get the same amount of money by being active or by being senior judges at the age of 66 under the hypothetical situation I gave.

Judge CLARK. The disincentive would be that they would not gain their social security income and avoid the tax if they took senior status.

Last month, before this bill passed, that would have been their situation.

Senator SPECTER. One final question. Some judges have said to me that the social security tax ought not apply to any judges, not only those in the senior judge status that we have been talking about, but any judges. Do you think that is a valid contention?

Judge CLARK. May I answer that personally? I think that is a congressional decision. Congress has decided to put itself under social security along with other top executive officials, and as far as I am concerned, I think that, including the judges in that situation, is up to Congress.

I couldn't say that you should not do so.

Senator SPECTER. Senator Hollings.

BENEFITS OF SENIOR STATUS

Senator HOLLINGS. Thank you, Mr. Chairman.

Who benefits, Judge Clark, to get to the bottom line with respect to the judges in the 65 age case—who benefits, the Government or the judge?

In other words, I am getting at the proposition of a new judge being required once the other takes senior status, I am looking at it from the standpoint of pay, the workload, and everything else of that kind. Is that provision allowing the judge to take the senior status really a sort of reward for good service, a job well done, and does it cost the Government? Or does it really enhance the Government's ability with this caseload to actually bring in another judge and receive valid services from this senior judge? Does it help the judge, help the Government, or does it just balance off? Who benefits most?

Judge CLARK. May I give you my opinion?

Senator HOLLINGS. Yes, sir.

Judge CLARK. I will ask Judge Blatt to give you his, too.

In my view, given the present overload of work in the court system and the inability of judges to actually get the cases decided, in my view, the impact is overwhelmingly in the public's favor of having additional judicial personnel. I think in the real world that we both live in, you know how difficult it is to get a nomination ready and to get Senate confirmation of a new judge.

It takes us a long time. We have how many vacancies now, Mr. Foley?

Mr. FOLEY. Thirty-four.

Judge CLARK. Thirty-four judgeships that are authorized right now that still remain unfilled because the process takes a while. And of course we have retirements and resignations along with that.

But we need the judge power. We need it badly, and all this judge has to do, if he is 65 and has the retirement service, he can sit down, and in 5 minutes he can write the President of the United States and say, "I want to take senior status," and right now, we have an additional vacancy. You have to go through the nomination and confirmation process, but the vacancy is available immediately without going to Congress for authorizing legislation.

DELAY IN FILLING JUDGESHIP VACANCIES

Senator HOLLINGS. Where is the delay? This interests me. I don't want to stretch it out, Mr. Chairman, but where is the delay now to actually bring it forth? Is it that this administration is behind in judges? I happened to have a predecessor that was appointed and qualified within about 72 hours, I think. Of course, he was a Senator. [Laughter.]

They appointed him as judge. Before he could get up there, he had already been sworn in. [Laughter.]

He is an outstanding judge, but I know it can be done much more expeditiously, again, just from the personal standpoint of observing it. And you can give me an honest answer: Is it this administration that is particularly bogged down in the bureaucracy, or the last one, or just now, in these years, it just takes weeks and months? I don't understand that.

Judge CLARK. Yes. At the beginning of this administration, there was a delay in filling authorized appointments simply because the people that were to do the job were all new at it and had to catch up a backlog. Some of the appointments, by the way, were left over from the Carter administration.

Then there are other situations, and I can give you——

Senator SPECTER. Did you say from the Carter administration?

Judge CLARK. Excuse me. Yes, sir, from the Carter administration, the judgeships from the past. There were a few judges who were still not in place that could have been in place under that administration. There have also been some appointments that were delayed temporarily. But I don't see anything really bad about this administration; it is just that the process takes time. Judge Robert Ainsworth of our court died of a heart attack in December 1981.

The original plan, as I understand it, was to nominate a district judge, Jack Gordon, and Judge Gordon was pretty far along in the process of being elevated to the court of appeals, and doggone if he didn't have a heart attack and pass away, too.

Since then, the matter has gotten bogged down in Louisiana politics, and it is a position, you know, that impacts on my court in that Judge Ainsworth's place is still not filled today.

Senator HOLLINGS. How many judges are there in senior status?

Judge CLARK. There are 239 actually serving today.

Senator HOLLINGS. And how many support personnel for the senior judges?

Judge CLARK. And 86 that are eligible for senior status that have not taken it.

Senator HOLLINGS. And the support personnel now assigned to senior judges, how many?

Judge CLARK. I don't know if I can answer that.

Senator HOLLINGS. That is all right. You can furnish that for the record.

[The information follows:]

SUPPORTING PERSONNEL FOR SENIOR JUDGES

There are 532 supporting personnel assigned to senior judges.

DISTRICT COURT WORKLOAD

Incidentally, Mr. Chairman, I will submit most of my questions here for the record, Mr. Foley, and particularly, one with respect, Judge Blatt, to the status now of the Charleston courthouse, because you did get it authorized and funded. I want to find out how that project is coming along. But more particularly, Judge Blatt, the Judiciary Committee chaired by senior collegue, Senator Thurmond, has reported the bankruptcy bill, and provided for 51 new district judges and 24 new circuit judges. But none is recommended to South Carolina. What is your comment? Are the district judges in South Carolina now active and keeping up with that workload?

Judge BLATT. Senator, after the freeze, the work is really in South Carolina. We have eight judges, and we are doing well. We are keeping up with our work, and we have got a very active senior judge, Judge Hemphill. I think we have a great judiciary. The fact we don't have any more in South Carolina I don't think is relevant. Your freeze works well there.

Senator **Hollings**. Very good. Thank you.

Thank you, Mr. Chairman.

Senator **Specter**. Thank you, Senator Hollings.

TEMPORARY EMERGENCY COURT OF APPEALS

The Temporary Emergency Court of Appeals was created by the Economic Stabilization Act of 1970. What has happened to that court?

Judge **Clark**. It is still functioning.

Senator **Specter**. Does it?

Judge **Clark**. Yes, sir, and appointments are made to that court by the Chief Justice.

Mr. **Foley**. Yes, sir.

Judge **Clark**. A lot of those, by the way, Mr. Chairman, are senior judges, tracking back to the point that we just made. I know it is the majority of that court.

Is it the entire court that is senior?

Judge **Blatt**. Most of them.

Senator **Specter**. I am told there is nothing in the budget about the court. Is that because it draws its personnel and supporting services and whatever else it needs from other funding lines?

Mr. **Foley**. Yes, sir. These are all judges who are active and have—they may be senior judges, but they are working with staff, so they don't require additional staff.

Senator **Specter**. And where do they sit?

Mr. **Foley**. They sit in various parts of the country, although Judge Wright, here in the D.C. Court of Appeals, is the chief judge and administers the program.

Senator **Specter**. How many cases did they have last year, for example?

Mr. **Foley**. Do we have that?

Mr. **Garabedian**. We don't have that figure.

Senator **Specter**. How many?

Mr. **Foley**. We can submit it for the record.

[**Clerk's note**.—The insert after page 762 references both the caseload and functions of the Temporary Emergency Court of Appeals.]

CREATION OF EMERGENCY COURT

Senator **Specter**. Why do we still need an emergency court?

Mr. **Foley**. They still seem to have plenty of cases. Of course, the court was created by statute.

Senator **Specter**. Have the circumstances changed for the reasons for creating the court?

Mr. **Foley**. I am really not in a position to answer that, Senator. We can ask some judges who are on the court and submit it to you.

Judge **Clark**. It might be best, Mr. Chairman, if you would let us submit a statement on the function of this court and what its caseload is for the record. I really am not prepared to answer it here.

Senator **Specter**. Fine. We will be interested to know that.

[The information follows:]

Temporary Emergency Court of Appeals
of the United States
U. S. Courthouse
Washington, D. C. 20001

May 10, 1983

Mr. William E. Foley
Director, Administrative Office
of the United States Courts
Washington, D.C. 20544

Dear Mr. Foley:

In response to your letter of ~~April~~ may 5, 1983, requesting information on the current status of the Temporary Emergency Court of Appeals, the following should be of assistance.

At present the Court is operating in the same manner as was described in Judge Tamm's letter to you dated February 27, 1981. (See attached)

As you know, the Temporary Emergency Court of Appeals (TECA) was created by Congress in 1971 to provide for prompt and nationally consistent appellate adjudication of cases arising out of the Economic Stabilization Act of 1970 (ESA), as amended, P.L. 91-379, December 22, 1971, 12 U.S.C. §1904 note (1976 supp.). In 1973 Congress expanded TECA's jurisdiction by incorporating the ESA's judicial review provisions into the Emergency Petroleum Allocation Act of 1973 (EPAA), as amended, P.L. 93-159, 15 U.S.C. §751 et seq. (1976 supp.). On December 22, 1975, Congress gave TECA jurisdiction over certain parts of the Energy Policy and Conservation Act, P.L. 94-163, which also extended the expiration date of the EPAA, and TECA's jurisdiction over cases arising thereunder, until September 30, 1981.

On January 28, 1981, President Reagan issued Executive Order No. 12287 lifting most allocation and pricing controls on crude oil, gasoline and propane. The General Savings Statute, 1 U.S.C. §109, and the EPAA's Saving Statute, §18, as amended by §461 of the Energy Policy and Conservation Act, continue the Court's jurisdiction over EPAA actions arising prior to the President's order of deregulation.

From July 1, 1981, through June 30, 1982, there were a total of 81 cases before the Temporary Emergency Court of Appeals: 54 cases were filed, 27 were carried forward, and 46 were terminated. In the 1982-1983 year to date, 48 cases have been filed, 44 terminated, and 31 are now pending. Furthermore, the Justice Department's most recent report indicates that there are approximately 400 cases pending in the district courts which will likely be appealed to this Court.

In summation, it is an objective analysis to say that this Court is fulfilling its mandate and has the capacity to continue its performance:

- This court is a functioning national appellate court.
- This court has material jurisdiction and experience in maintaining such a case load.
- The national jurisdiction gives uniformity to the review process.

- This court is composed of judges from each of the Federal Circuits, providing a "home body" concept to all hearings.
- The procedure of the court is designed to handle and facilitate expedited litigation.
- This court has the capacity for the immediate handling without delay of a new case load.*

Please do not hesitate to contact me if you need additional data or information.

Sincerely,

J. Skelly Wright

Attachment

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* I am confident that the Committee is aware of the Annual Report on the State of the Judiciary delivered by the Chief Justice to the American Bar Association at its mid-winter meeting on February 6, 1983. In that message the Chief Justice referred to TECA as a temporary court which has served well in relieving the Supreme Court from hearing cases within the area of TECA jurisdiction. See page 447, American Bar Association Journal, April 1983. In this connection, it is interesting that, in spite of the hundreds of cases decided by TECA, not one has been reviewed by the Supreme Court on the merits.

February 27, 1981

Mr. William E. Foley
Director, Administrative Office
of the United States Courts
Washington, D. C. 20544

My dear Mr. Foley:

I set out hereafter some data concerning the operations of the Temporary Emergency Court of Appeals in the belief that these materials will be of some assistance to you in responding to Senator Arlen Specter's letter of February 19, 1981, in which he proposes the abolition of the Temporary Emergency Court of Appeals.

First let me assure you that I have absolutely no personal interest in whether TECA is continued or discontinued. I carry a full share of my judicial responsibilities on the District of Columbia Circuit, and with various other duties assigned to me, the responsibilities of operating TECA are an extra burden which in the interest of judicial efficiency I have been willing to accept.

As of the date of this letter, there are thirty-nine cases pending before TECA. In addition, the latest figures furnished to us by the Justice Department indicate that there are 321 cases pending in the district courts which will probably be appealed after disposition to this court for appellate ruling.

When TECA was organized, I cut in half the time allowed by the federal appellate rules for the filing of cases in TECA. On the day that a notice of appeal is filed, I designate a panel of three judges to hear the case and notify those three judges of the assignment to them. Since the judges assigned to TECA are pretty well dispersed across the nation, I endeavor in the interest of saving travel expenses to assign to each case those judges geographically closest to the situs from which the appeal is taken.

Appellants under TECA rules are allowed twenty days in which to file their briefs, as contrasted to the usual circuit rules which allow appellants forty days for such filings. Appellees are allowed fifteen days for the filing of their briefs, as contrasted to circuit rules which allow thirty days for such filings. Appellants are allowed seven days for the filing of reply briefs, in contrast to usual appellate rules which allow fifteen days for such filings.

As briefs are filed with the clerk of court, they are immediately transmitted to the hearing panels with the result that when the filings are completed, the judges then have had an opportunity to completely familiarize themselves with the issues involved in that case. This procedure enables designated panels to set the date and place of hearing within approximately sixty days after the notice of appeal has been filed. By this means it is possible in most instances to have an appellate opinion issue in roughly ninety days after the notice of appeal has been filed.

The procedures outlined above are in contrast to the usual circuit appellate procedure in which the average case will pend for at least a year before it is heard.

All of the judges assigned to TECA responsibilities also carry their share of the other work in their circuits or districts. TECA's judge quota consists of active and senior circuit and district judges who receive no additional compensation for their service on TECA.

The staff of TECA consists of five members who are compensated as TECA employees. As indicated, no judicial officer of TECA receives any additional compensation for the services performed for that court.

In the calendar year 1980, fifty-three cases within TECA's prescribed jurisdiction were actually filed. In 1979, TECA judges heard and disposed of 55 cases. Since its inception in 1972, TECA judges have heard 344 cases. Places held for hearings have ranged virtually across the country--roughly from Boston to Los Angeles.

If there is any additional data which you desire concerning TECA's operations, I will of course endeavor to furnish it to you.

Sincerely,

Edward Allen Tamm

INTERIM APPEALS COURT

Senator HOLLINGS. Mr. Chairman, on a similar point—because we had a Supreme Court budget also—do you care to comment or would you please, Judge Clark, on the recommendation of Chief Justice Burger for an interim appeals court to the U. S. Supreme Court?

Judge CLARK. Would you want a description of what he wants?

Senator HOLLINGS. No, the chairman and I know what he has proposed. But I am just wondering. Do you think that is a wise move? You are on the circuit, the Chief Judge of the Fifth Circuit and you have been in the game. I understand the workload, but then you understand the stability of the system and the reliance on being able to appeal your case to the U.S. Supreme Court.

I am a litigant, and I come along, and I feel like justice would be done from the fundamental of the American judicial system to put in that interim appeals court.

Judge CLARK. Senator, the court's function would be one of enabling the Supreme Court to better handle its workload. We think we are overloaded, but that court has a tremendous load.

Senator HOLLINGS. And you think it is needed. You would agree with Chief Justice Burger?

Judge CLARK. I'm just not sure how it would work. I would defer to the Chief Justice, let me put it that way. I don't want to take a position contrary to his.

The question that I have is whether or not the number of conflicts between circuits is really so great that that interim court of appeals, by resolving intercircuit conflicts, could make a substantial difference in the workload of the Supreme Court.

Of course, you know as a practical matter, when you say that you have got a right to appeal to the Supreme Court, they are preparing opinions in approximately 150 cases a year, and there are almost—well, I think there are slightly over 5,000 cases that they are asked to decide.

Senator HOLLINGS. Right.

Judge CLARK. So your right to appeal is pretty slim.

Senator HOLLINGS. We think this is a flaw. Senator Specter gets into the Emergency Appeals Court. As far as we could create courts, they would create cases, and we would still be in the same situation. We just don't know.

CURTAILING JURISDICTION

Judge CLARK. The only answer is to curtail jurisdiction. We don't need any more speedometer laws. We don't need truth-in-lending laws. There are several statutes like this that create jurisdiction for the courts of the United States.

Senator HOLLINGS. Would you like to testify when we have the Federal Trade Commission budget? [Laughter.]

I would like to hear you come up on truth in lending and everything else.

Judge CLARK. It doesn't seem to me it is a Federal case when a fellow is suing a lender on a $60 note; whether the clause in a printed form is the right clause or not or whether a mechanic turned back a speedometer on a car to 40,000 when it has 60, or the disclosure form is inaccurate. We have had those kinds of cases, too. I just pick out those as glaring examples.

Senator HOLLINGS. Do you mind writing us? Well, if you don't mind, it would be helpful, because you are making a very, very valid and important observation. Do you mind elaborating on that for the record some time when you get back home and just give us, generally, your views along that line? Because this is a consideration that has missed the attention of the Congress, frankly. We were grinding those things out in the seventies faster than you could think. As now is the case, of course, it is all bogged down and what, in essence, would be important to the individual involved are trivial to the Federal court. It shouldn't be bogging down your dockets.

I would appreciate it, Judge Clark. Will you do that?

Judge CLARK. I will.

[CLERK'S NOTE.—Judge Clark will submit a statement at a later date directly to Senator Hollings.]

DIVERSITY JURISDICTION

Judge BLATT. I think diversity jurisdiction was given to the magistrate in discussing those jurisdictions in the case of turning back speedometers. Sitting on the judiciary, especially in South Carolina, we would oppose diversity of that, which is something I think is included. All of us oppose the elimination of that jurisdiction. We have to keep reversal jurisdiction to give the speedometer and truth-in-lending cases to somebody like the emergency magistrate. Let us have the important cases and let us take care of the jurisdiction cases which are of great import, and in some instances, it creates situations for parties if you eliminate it you really can't get a fix on it.

Senator HOLLINGS. Yes. Thank you very much.

Judge BLATT. Some of us think that.

Judge CLARK. There is another view, and I will say that I think that Judge Blatt's view is very valid. I think that there is another view that is equally compelling. It is an insult to federalism as far as I am concerned with the Federal courts, at this day and time, retaining diversity jurisdiction over cases that involve State issues. We even now have a process where we certify that the questions, when they are unique, we certify the question of State law back to the supreme court of the States, if they will permit us to do so, and most of them do. So we wind up with the litigant coming into Federal court and bringing a case and then the Federal court asking the State supreme court, "What is the law in the State about this subject?"

It might have been useful in 1900 to have a Federal forum which you could retreat to when States were so parochial that they wouldn't give you a fair trial, but I don't believe that that situation exists any more. I think it is a luxury you can't afford. They are the most interesting cases that the Federal courts try, and I think there are a number of district judges that share Judge Blatt's view exactly and a number of appellate judges, too.

As far as I am concerned, needs of the system are different. I think there are valid issues on both sides of the question, but there are others that are more mundane and more trivial.

I would be glad to write you.

Senator HOLLINGS. I would appreciate it.

Senator SPECTER. As you can tell from a session like this, Senator Hollings and I like to talk about this subject. We are way past time. We will submit the questions for the record.

Judge CLARK. I am sorry.

SPEEDY DISPOSITION OF APPELLATE CASES

Senator SPECTER. No; not at all. We have inspired the questions. One subject I would like to mention before concluding is the subject of speedy disposition of appellate cases and the related issue of blanket judicial opinions. This is a question that I posed 2 years ago when Justice Powell and Justice Rehnquist were here and about 2 weeks ago when Justice Powell and Justice O'Connor were here.

The lengths of opinions are very extensive in many, many cases. Is there any way to abbreviate the language of court of appeals opinions or district court opinions, and at the risk of asking two questions in one, can Congress have the power to limit the length of judicial opinions?

Judge CLARK. I would say "Yes" to the first and "No" to the second. I believe that a judge's opinion has got to be free as far as its expression. The purpose is to be reasonable and to persuade the minds of the people that are involved and who watch the system that the case is developed and decided on a reasonable basis and that controversies are resolved in accordance with the law. So I seriously doubt that there would be a constitutional way that the Congress should say no opinion over 20 pages should be written.

Senator SPECTER. 500 pages?

Judge CLARK. Unfortunately, 500, unfortunately, Mr. Chairman, I don't see how you could fix a limit that would be constitutional.

Senator SPECTER. I suppose if you can't fix it at 500, you can't fix it.

Judge CLARK. I would say that there are a number of things being done by the courts. I know that your circuit is working in this same area, and in our circuit, we have stopped publishing as many opinions as we did before.

Now, every judge watches the opinions that he prepares with regard to their precedential value. If they are simply deciding an issue that has been decided in the court before, even though there is a fairly elaborate opinion, prepared and signed by the judge, it is not published, and this takes away from the volume.

PUBLICATION OF DECISION

Senator SPECTER. Who makes the decision on what is not published?

Judge CLARK. In our court at the present time, the judge who prepares the opinion makes that decision.

Senator SPECTER. Maybe he is the wrong one. Perhaps that would be the way: If the opinion is over so many pages, it wouldn't be published. Does Congress have any power to do that?

Judge CLARK. As I say——

Senator SPECTER. That would involve more provisions in the Constitution than just judicial power, wouldn't it?

Judge CLARK. Yes, sir. It is a question that I could not answer on the spur of the moment.

Senator SPECTER. I would think not.

Judge BLATT. You can't think of the thousands of dollars you have saved by having us buy law books.

Senator SPECTER. That is right.

Does Congress have the power to legislate on a timespan for conclusions of appellate decisions as we did in the Speedy Trial Act in criminal cases?

Judge CLARK. My opinion this morning would be no to that also. The congressional decision could perhaps take the case out of the court system, though, after some particular period of time. I don't know how you would——

Senator SPECTER. Like busing or abortion or First Amendment issues?

Judge CLARK. No, I don't mean the deprivation of jurisdiction, but just do as you did in Speedy Trial Act cases. I think there could be a dismissal of the case if there is not a speedy opinion. But this favors one side or the other just like delay does right now. Every day you delay a case, you are deciding that case against one side or another.

Senator SPECTER. But the dismissal in the criminal case places the burden on the Government which has the burden to conclude the case. But if you impose that on the court of appeals decision, it would prejudice the litigant for failing to conclude the case.

Judge CLARK. For the court's failure.

Senator SPECTER. Yes, the litigant, not the Government.

Judge CLARK. If I don't like Senator Hollings, if I hit you, that just doesn't make any sense at all. This is the problem.

Senator SPECTER. So dismissal could not be the consequence, but there could be other consequences of the failure to conclude an appellate case filed in an adequate period of time.

Judge CLARK. It is an interesting proposition that I hadn't thought of, that the Congress could order that the judge perform his work in any given number of days. I do know this: Every appellate court system presses their judges all the time. We have an internal list of cases that is circulated to every judge on our court that shows, by name, to every judge, every other judge on the court that judge's case list; how long he has had it, when it was submitted to him, with the idea that the peer pressure would keep that judge as current as possible.

Senator HOLLINGS. I would just put in there to—provide for it like with a Governor: If he doesn't sign within a few days, it becomes law. If they don't decide within *x* number of days, the decision of the lower court is affirmed.

Judge CLARK. As I say, I just don't know who you are going to hurt.

Senator SPECTER. Any more questions, Senator Hollings?

Senator **Hollings**. No, thank you.

Senator **Specter**. Thank you very much, we very much appreciate your appearing.

FEDERAL JUDICIAL CENTER

STATEMENT OF A. LEO LEVIN, DIRECTOR, FEDERAL JUDICIAL CENTER ACCOMPANIED BY CHARLES W. NIHAN, DEPUTY DIRECTOR

INTRODUCTION OF WITNESS

Senator **SPECTER**. We have a very extensive agenda.

Our next witness is Hon. A. Leo Levin, Director of the Federal Judicial Center.

Senator **SPECTER**. Mr. Levin brings to this position a very distinguished career as professor at the University of Pennsylvania Law School, provost, as I recollect, of the University of Pennsylvania.

Mr. **LEVIN**. That is vice provost.

Senator **SPECTER**. A small promotion is in order under these circumstances. Mr Levin has held very significant positions in the legal political system, as I recollect, was the fifth member of the redistricting panel in 1970, which redistricted the State of Pennsylvania and is a longtime friend of mine.

Mr. Levin, we welcome you here and look forward to your testimony.

OVERVIEW

Mr. **LEVIN**. Thank you, very much, Mr. Chairman.

I am very grateful for those kind remarks.

May I introduce the Deputy Director of the Center, Charles W. Nihan, who is here with me today.

I would like to open by stating that we have submitted an amendment calling for a net reduction in our request of $52,000. It is the result of considering two items: a decrease of $112,000 in the inflation figure. Based on percentages given to us, this figure is down to 5 percent.

And, then, there is the problem of security that you are very familiar with. Because the GSA has announced that they will no longer provide security for us, along with the courts and administrative office, this is an item we will have to pick up and, thus, are requesting an additional $60,000 for a net decrease in our request of $52,000.

I would just like to suggest most briefly that we are a research and development agency created by the Congress, and as a result, as the chart on page 3(a) shows, our budget request and our budget authority have been going up and down.

Our board and our staff try very hard to make the money go as far as it can, and as a result, despite the increased demands on us by virtue of the mounting caseloads, mounting personnel for whose training we are responsible. As you can see from the figure, we have made the dollars go further in terms of our mission than ever before. Our only request for programmatic increases, the first in 3 years, is for the purpose of some development in the field of automated data processing, as detailed in the submission, and we think this is necessary and essential at this particular time—one of the items being, for example, for the probation information management system.

It is necessary to move along on a developmental program at this time.

Beyond that, Mr. Chairman, I would be very pleased to respond to any questions which you may have.

[The prepared statement of A. Leo Levin follows:]

PREPARED STATEMENT OF A. LEO LEVIN
DIRECTOR
FEDERAL JUDICIAL CENTER

Mr. Chairman:

I am privileged once again, as Director of the Federal Judicial Center, to appear before you to submit the appropriations request for the Federal Judicial Center for fiscal year 1984. This request has been reviewed and unanimously approved by the Center's Board, chaired by the Chief Justice of the United States.

We seek this year what we believe to be a modest programmatic increase for the purpose of further development in automated data processing. We believe that such development will prove cost effective and will result in very substantial savings as early as fiscal 1984. Moreover, as will be described more fully below, we believe that such development is essential in order to prevent an ill-timed breakdown of existing outdated computer equipment at some future date without provision having been made for a cost-effective alternative.

To present our request in context, I should like to address briefly the role of the Center as a research and development agency and the implications of this role for our budget over the course of the last eight years. Thereafter, I should like to treat briefly recent developments with respect to the costs of computer hardware, maintenance and telecommunications. Finally, against that background, I shall turn to the details of our specific requests.

The Center as a Research and Development Agency

By statute the Center is charged, inter alia, with meeting the research and development needs of the federal judiciary. A specific statutory charge to the Board of the Center is that they shall "study and determine ways in which automatic data processing and systems procedures may be applied to the administration of the Courts of the United States."

When the Center completes and successfully tests a technology-based research and development project we transfer project responsibility, funding authority, equipment and personnel to the Administrative Office of the United States Courts for subsequent day-to-day administration. This procedure is in fulfillment of our understanding with the Congress and each specific transfer is always made with Congressional approval.

Because of this development mission, over the years the Center's budget, and particularly the budget of our division which concentrates on technological innovation, has fluctuated. There have been peaks and valleys--dramatic decreases and also increases.

Figure 1 at page 3a illustrates both the increases and the sharp decreases in the budget authority of the Center as it proceeded to fulfill its statutory mission. In fiscal 1977 there was a non-recurring, substantial expenditure for the purchase of hardware for the development of COURTRAN. Subsequent reductions in budget authority resulted primarily from a transfer to the Administrative Office of applications which were declared operational, as described above. Center personnel has likewise fluctuated. In fiscal 1978 there were 96 permanent positions authorized. That number rose to 117 in 1980 and 1981 and has since, as a result of transfer, been reduced to 92 in the current year.

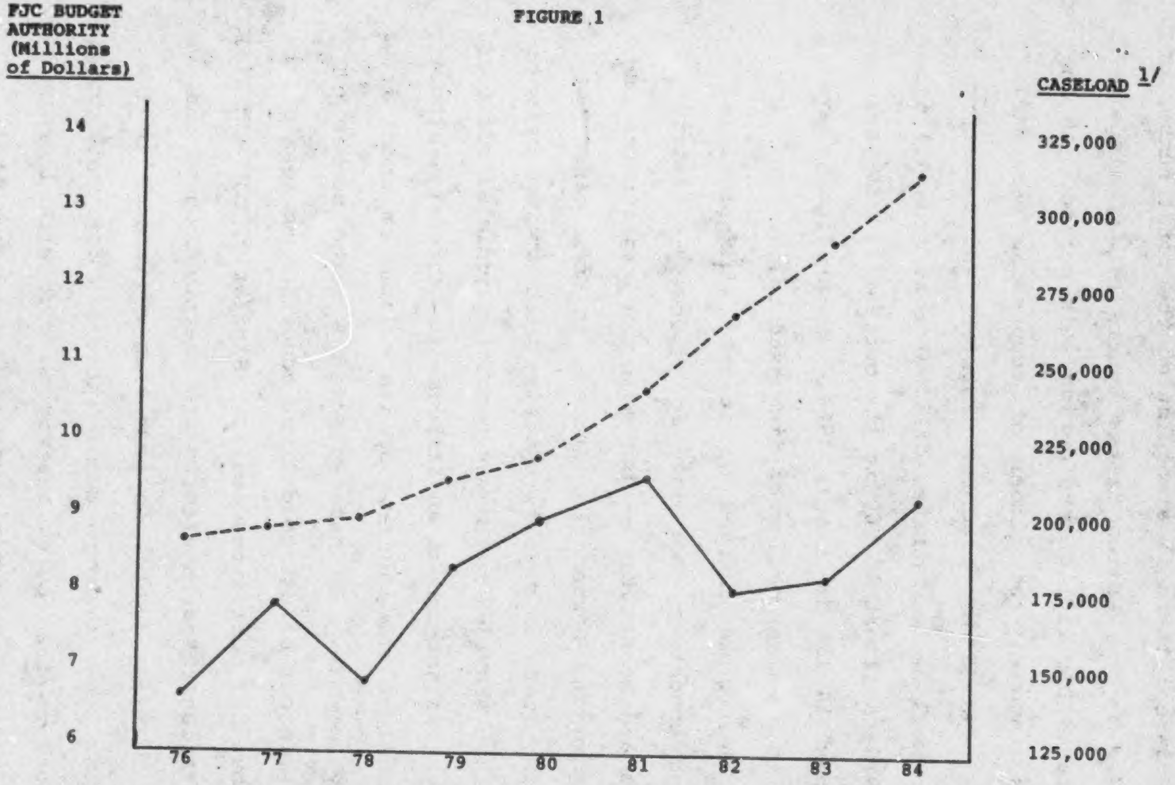
On Figure 1 there is also plotted the total number of cases filed in the United States Courts of Appeals and United States District Courts during this period. As the caseloads mounted, the number of supporting personnel (limited to staff for circuit, district, and bankruptcy courts as well as magistrates offices) rose from 9,116 in fiscal 1976 to almost 13,000 in the current fiscal year and a projected 14,214 in fiscal 1984. These figures are relevant to a number of issues discussed below.

The Center is charged by statute with providing continuing education, not only for judges -- district, appellate and bankruptcy -- but also for magistrates and other supporting personnel. Indeed, in some cases the controlling statutes specify the time within which orientation must be provided for newly appointed judicial officers. The Center has not sought an increase in budgetary authority proportional to the increase of its obligation under its statutory mandate. We have effected a large number of economies in our effort to deliver education no less effectively, but far more economically. Similarly, our judicial administration research efforts are sharply focused and, we believe, directly useful in promoting efficiency in the courts. We seek no programmatic increases for these added obligations as the courts attempt to cope with increased workload nor for the training of additional personnel.

The requested programmatic increase is limited to certain specific aspects of computer research and development.

The rising caseload and size of the federal judicial system is relevant in another regard. As the numbers mount, the need for modern management tools becomes more critical. The Congress is familiar with the complexities of

FIGURE 1



NOTE: (———) shows budget authority
(- - -) shows caseload

1/ Reflects total number of cases filed in United States Courts of Appeal and United States District Courts.

administration required under the Speedy Trial Act and has been generous in its support of our development of automated systems to assist large courts in assuring compliance. The benefits of computerization have been widespread: three quarters of the district courts as well as more than one-half of the appellate courts have already benefited. Other applications developed economically by the Center have also had great impact. These include what we term CVB, or the Central Violations Bureau system. Over 535,000 petty offenses, a large proportion of which are traffic tickets on federal installations, are necessarily processed in the federal judicial system, although they are not counted in the statement of caseload. It is exceedingly important that there be accountability for tickets so issued, that fines be collected, and that the resulting funds be turned over to the United States Treasury. The amounts involved are not insubstantial. In fiscal 1982 almost $7,000,000 was collected, compared to less than $4,000,000 in 1976. There is clear evidence that the contribution of the Center has not only been cost effective, but has also been an important ingredient in achieving such accountability. Moreover, the number of personnel assigned to this function has been reduced since automation.

This is the background against which one must consider current developments in the field of computers.

Ten years ago the centralized time-sharing computers, which now support the federal judiciary, were not only cost efficient, but also the most well developed state of the art in the computer industry. We have been advised by leading academic and industry experts in the field of computers that, although the decision made at the time of the purchase of the main frame hardware on which COURTRAN was developed was indeed the proper one, a generation in the field of computers is only five to seven years. These computers have now exceeded their expected useful life.

Three related phenomena in the economics of automated data processing are relevant in terms of deciding on the course of future development. First, the cost of computer hardware, measured in terms of processing power, has been dramatically reduced. At the same time, the maintenance cost for existing centralized hardware, already over-age and subject to frequent breakdowns, has dramatically increased. Thus, quite aside from the fact that service is no longer of optimal quality, the dollar expenditures for such maintenance mandates that within a reasonable period this equipment be replaced. Third, the cost of telecommunications, the means by which a court communicates with the centralized computer system, has simply skyrocketed and promises to increase still further. Thus, as the very costs involved in the maintenance of centralized hardware continue to escalate at a rapid rate, costs associated with the installation and development of decentralized hardware system are becoming economical. Decentralization, or placing stand-alone computers in the courts themselves, is a change both cost effective and highly desirable.

It should be emphasized that development of a decentralized configuration of computer support should not and does not imply simply providing each court with its own hardware and authority to proceed in whatever way it chooses. This would be both wasteful and counterproductive. Decentralized computer support in the federal system will involve centralized software development, assuring economies of scale since basic application packages will be developed once nationally and not many times over locally. In addition, consistency in the definition of data, which results from uniform software, will allow for the compilation of meaningful national statistics. Centrally developed applications will range broadly and will include, for example, case management, financial accounting, attorney rolls and personnel management.

I turn now to the specifics of the Center's 1984 budget requests.

Overview of 1984 Budget Request

The appropriations request now before this subcommittee for fiscal year 1984 totals $9,282,000, which is virtually identical with the Center's budget for 1981 ($9,241,000). (To be precise, an increase of four-tenths of one percent would be involved.) This increase includes: (1) funding for four additional permanent positions in the Division of Innovations and Systems Development; (2) increases resulting from adjustments to "base and built-in-changes;" and (3) for the first time in three years, a programmatic increase. I should add parenthetically that while we refer to positions as permanent, personnel levels fluctuate, as the our history demonstrates, and these are in no realistic sense "permanent."

Two distinct and separate projects have necessitated the Center's request for additional programmatic increases in the amount of $756,000. Those projects are the Probation Information Management System ("PIMS") and the decentralized Appellate Information Management System ("New AIMS").

Probation Information Management System

The Administrative Office has completed a preliminary study of costs and benefits associated with the institution on a nationwide basis of the decentralized PIMS and has tentatively concluded that, when fully operational, such institution might result in an annual savings to the federal probation system of 9.18 million dollars. The institution of a nationwide PIMS could possibly reduce the number of permanent probation office positions, positing present workload, by 372. Significant benefits sought through PIMS include not only financial savings but also qualitative improvements in the information available to sentencing judges and probation administrators. Probation system accountability and uniform processing of defendants from district to district will also be facilitated by the development of PIMS on a nationwide basis.

The Center is requesting $482,000 to develop and evaluate the ability of the system to secure these substantial financial and qualitative advantages for the federal probation system. (It should be noted, parenthetically, that in computing anticipated benefits, it is necessary separately to consider not only the budgets of the Center and the Administrative Office, but also the budget of the United States Courts, and this has been done.)

Appellate Information Management System

The Center has requested $274,000 to continue the on-going New AIMS project, in order to effect a projected savings to the federal judiciary in fiscal year 1984 alone of approximately $900,000. Continuation of the AIMS project will allow an evaluation of distributed processing options which will facilitate the necessary change-over from the present heavily burdened centralized computer hardware to a more efficient and less costly decentralized system. Even if the projected cost savings, measured in terms of appellate court needs, were to be overly optimistic by a factor of two, this improvement would be cost-effective and, in terms of present problems, necessary.

Adjustments to Base

Adjustments to Base and Built-In Changes call for an increase of $737,000. Over fifty percent of this amount ($381,000) is requested to cover increases in standard level user charges (SLUC) assessed by the General Services Administration. This figure is a result of GSA's intent to recover in fiscal year 1984 any loss in rental charges resulting from freezing 1983 SLUC rates at 1982 levels. This is an increase over which we have no control. If the Congress chooses to limit or eliminate this increase, as was done last year, our request to cover the projected SLUC increase will be reduced accordingly.

I have attempted to summarize the needs of the Federal Judicial Center for fiscal 1984. My colleague and I would be pleased to answer any questions you may have about our budget request, or indeed about any other aspect of the Center's work which may be of interest to you.

Thank you.

CENTER'S IMPACT ON THE JUDICIAL SYSTEM

Senator **Specter**. Mr. Levin, the Judicial Center is the chief research development arm of the judicial branch.

What projects has the center been involved in over the years that have contributed to a more efficient operation of the judicial year?

Mr. **Levin**. I think there have been a number.

One of the things that comes immediately to mind are our case management studies which have demonstrated most convincingly that by judges taking charge of their calendar, taking the initiative in running it, we not only save litigants literally years, but the courts are also able to control their dockets.

The most recent comment on the importance of case management came from the chief judge of the Second Circuit within the past few weeks. He said this work made it possible for their district courts to keep on top of their dockets.

On the appellate level——

Senator SPECTER. What did you do on case management, specifically?

Mr. LEVIN. Specifically on case management, we studied over 3,000 terminated civil cases in ten district courts; over 7,000 docketed discovery entries, aside from a number that were not docketed, and we showed, I think quite dramatically, that a strongly controlling judge in a strongly controlling court environment speeds the disposition of cases as compared with a no-control judge in an environment of weak controls—

Senator SPECTER. How do you instruct a judge to become a controlling judge?

Mr. LEVIN. Ah, the way we do that is we have educational programs. It isn't a matter of ordering them. It is a matter of demonstrating that you can save, even in settled cases, over a year's time on the average. We bring in people who have been doing it. We give them little techniques, such as every time there is a lawyer's conference, you never end without setting another date for follow-up; So you raise the question. You say "end of discovery; will it be all right to end in 90 days? Is there any reason for more? Will both attorneys agree?"

Then you enforce the thing.

Our belief is that it is not only valuable for the docket control, but it also reduces cost.

Senator SPECTER. What has been the consequence of the elaborate pretrial orders which have been used in some districts?

Mr. LEVIN. This is something I can't respond definitively to. Pretrial orders are governed by F.R. Civ. P. 16. In our judgment, an amendment to the provisions of rule 16, which is currently lodged in the Supreme Court, gives a lot of flexibility on the detail but would require a scheduling order, if implemented and approved. The best I can say is that in some places pretrial requirements have been too elaborate. It is not a good thing.

On the other hand, some kind of a conference, some kind of moving along is useful, and different judges have different techniques.

I can give a number of other examples of what we have done. On the appellate level, we studied very carefully the civil appeal management program now in two circuits and the followup study in one of those. And then we were invited to another circuit that was in desperate shape on the appeals; they called us in, we visited them. We suggested changes. They moved. They are now announcing that they are current. I could multiply examples. This has happened in automated data processing where our work has made an impact on the Speedy Trial Act.

Today, our computer applications cover 62 percent of felony filings in Federal court.

To name one of the most dramatic is what we call Central Violations Bureau. There are over a half-a-million petty offenses, traffic tickets in the Federal system.

Today, 80 percent of these——

Senator **Specter**. How did traffic tickets get into the Federal system?

Mr. **Levin**. On the Federal lands, on military installations, on national parks. The situation was not happy. Tickets were voluminous when they came to us. But nobody was controlling these things.

There were scofflaw attitudes in certain camps. Today, these tickets are under control. We have done it in a very economical way. We are getting good feedback reports. I could go on: Not only automated data, but our educational systems.

Some of the judges report to us that some of the programs have literally meant the difference of some weeks of trial as a result of settlement and so on.

SAVINGS EFFECTED IN 1982

Senator **Specter**. At the end of fiscal year 1982, the Center returned to the Treasury an unobligated balance of $835,000 dollars. Before asking you the question which has been prepared for me, I compliment you. And now I ask you, to what do you attribute the savings?

Mr. **Levin**. Thank you, Mr. Chairman.

There are a number of factors:

First, it is true—thanks to the chairman of our board and the board and the staff—our notion is that anytime we can save a dollar we do; that is traditionally the milieu of the Center. But it was an unusual year.

The Congress and the President signed last April—a year ago—a bill mandating a study of electronic court reporting. That study was assigned to us. We did not want to come in for a supplemental. That study will cost over a third of $1 million on our budget this year alone. We thought we could get a lot of that money spent last year but we could not. Because we were worried about it, we delayed other things.

I can give you details if you want. And so I would say it was a very unusual year last year, and this year, we have a lot of things that we think we want to catch up on, including that $365,000 for that one study alone.

ADDITIONAL PERSONNEL

Senator **Specter**. You have requested four new positions; two for the development and pilot operation of the probation information management system and two for an evaluation of distributed processing. Could you give us some details on those requests?

Mr. **Levin**. Yes, Mr. Chairman, I would be pleased to. On programs like this, because our deputy director formerly served with great distinction as head of the systems development division, perhaps I might turn to him to respond to this.

Senator **Specter**. We would be pleased to hear him.

Mr. **Nihan**. Thank you, Senator.

One of the two projects we propose to undertake in fiscal year 1984, the probation information management system, was requested of the Center by the Judicial Conference of the United States and subsequently unanimously approved by the Center's Board.

As you know, there has been significant criticism of sentencing disparity throughout the United States. We expect this system to both provide modern management tools to probation officers to allow them to better apply the resources that they have to probationers, and also to develop a national sentencing data base so a judge can determine what the average sentence for a similarly situated defendant in a similar situation.

Senator SPECTER. How do you define a similarly situated defendant; same fingerprints?

Mr. NIHAN. Certainly not same fingerprints, sir. It is a difficult decision to make, but one of the nice things about the PIMS system that is being proposed is that each judge would be able to define similarly situated rather than continue the existing situation where several national tables are printed which indicate, for example, "First-time offender between the ages of 18 and 25, and bank robbery as the most serious offense."

In a table such as that, the judge is simply unable to manipulate the offense and offender variables involved. Since the detailed information in PIMS would have been keyed in as a normal part of the probation officer's work, I might add, the judge will be able to query whether or not a weapon was involved or whatever else he might care to ask.

Senator SPECTER. That is very interesting.

Well, gentlemen, thank you, very much, for coming.

We are very pleased to see you here this morning. We know you perform very important work. We think they are lucky to have you, Mr. Levin.

Mr. LEVIN. Thank you, very much, Mr. Chairman.

SUBMITTED QUESTIONS

Senator SPECTER. The committee has additional questions which we will submit for your response. They will appear in the record at this point.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR LAXALT

QUESTION:

What are the total savings estimated for all the Judiciary accounts for fiscal years 1983 and 1984 due to lower than budgeted inflation? Please provide an account-by-account breakdown.

ANSWER:

The response follows:

Account	($000) Amounts of Savings 1983	($000) Amounts of Savings 1984
Court of Appeals for the Federal Circuit...	$ 5	$ 15
Court of International Trade...............	8	25
Fees of Jurors and Commissioners...........	...	150
Expenses of Operation and Maintenance of the Courts..............................	1,560	2,506
Bankruptcy Courts, Salaries and Expenses...	300	660
Space and Facilities.......................	350	885
Court Security.............................	...	360
Subtotal............................	2,223	4,601
Administrative Office of the United States Courts............................	166	325
Federal Judicial Center....................	105	112
TOTAL...............................	$2,494	$5,038

QUESTION:

Please provide the percentage and amount of the Standard Level User Charge (SLUC) increase for the relevant Judiciary accounts, as well as whether these increases are related to leased or Government-owned property.

ANSWER:

The response follows:

Estimated Standard Level User Charges for Fiscal Year 1984

	1983 Estimate	1984 Estimate	Increase	Percentage of Change Between 1983 and 1984
United States Court of Appeals for the Federal Circuit				
Government-owned Space	$ 1.126.000	$ 2,474,000	$ 1.348.000	120.0
United States Court of International Trade				
Government-owned Space	$ 1,480,000	$ 1.784,000	$ 304,000	20.5
United States Courts of Appeals, District Courts, and Bankruptcy Courts[1]				
Government-owned Space[2]	$ 91,814,000	$121,875,000	$30,061,000	32.7
Commercial Space	16,202,000	21,507,000	5,305,000	32.7
Subtotal	$108,016,000	$143,382,000	$35,366,000	32.7
Defender Services				
Government-owned Space[2]	925,000	1.260.000	335,000	36.2
Commercial Space	163,000	222,000	59,000	36.2
Subtotal	$ 1.088,000	$ 1.482,000	$ 394,000	36.2
Administrative Office of the United States Courts				
Government-owned Space	$ 498.335	$ 1.446,687	$ 948.352	190.3
Commercial Space	966.665	1,253,313	286.648	29.6
Subtotal	$ 1,465,000	$ 2,700,000	$ 1.235,000	84.3
Federal Judicial Center				
Government-owned Space	$ 217,000	$ 542,000	$ 325,000	149.8
Commercial Space	169,000	225,000	56,000	33.1
Subtotal	$ 386,000	$ 767,000	$ 381,000	98.7
Summary:				
Government-owned Space	$ 96,060,335	$129,381,687	$33,321,352	34.7
Commercial Space	17,500,665	23,207,313	5,706,648	32.6
GRAND TOTAL	$113,561,000	$152,589,000	$39,028,000[3]	34.4

[1] Exclusive of Defender Services.

[2] The SLUC rates have been distributed between Government-owned and commercial space based on a GSA survey that 85 percent of the space is government owned and 15 percent is commercial space. We have requested from GSA detailed information concerning the distribution of charges between government owned and commercial.

[3] Of the $39,028,000, $35,173,128 is for rate increases and $3,854,872 is for additional space.

QUESTION:

What services does GSA provide for the SLUC fees?

ANSWER:

In return for the SLUC fees, GSA is to provide the courts with suitable court, office, and other related space as well as building services such as security, utilities, air conditioning, cleaning, and general maintenance.

QUESTION:

Recently enacted legislation will place all of the judges, including magistrates, under Social Security effective January 1, 1984. Do your budget estimates for 1984 reflect the Government's matching contribution? What do you expect it will be, by accounts?

ANSWER:

Our budget estimates for 1984 do not reflect the Government's matching contributions. The estimated additional cost for each of our appropriations is listed below:

COURT OF APPEALS FOR THE FEDERAL CIRCUIT...	$ 6,000
COURT OF INTERNATIONAL TRADE...............	4,000
COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES	
Salaries of judges....................	$1,800,000
Salaries of supporting personnel......	1,500,000
Magistrates...........................	500,000
Defender services.....................	25,000
Bankruptcy............................	605,000
Subtotal..........................	$4,430,000
ADMINISTRATIVE OFFICE.....................	10,000
FEDERAL JUDICIAL CENTER...................	44,000
TOTAL.................................	$4,494,000

Note: The estimated cost assumes a 3 percent turnover rate in personnel. The total cost of all the personnel at today's rates would be approximately $36 million.

QUESTION:

Funds are requested for fifteen full-time magistrates in several district courts. Where are magistrates currently located throughout the country?

ANSWER:

In accordance with 28 U.S.C., Section 633(c), the Judicial Conference is engaged in a continuing oversight process in an effort to improve the federal magistrates system. Specifically, the Conference determines the number, location, and salaries of all magistrate positions. In addition, the Conference reviews periodically the arrangements and the continuing need for each existing magistrate position.

For fiscal year 1983, the Congress provided funds for 223 full-time positions, 241 part-time positions and 19 combination bankruptcy judge-magistrate or clerk-magistrate positions (see attachment listing locations of magistrate positions). For fiscal year 1984 funds have been requested for 15 additional full-time positions, 16 fewer part-time positions and 6 fewer combination positions.

District and Location	Type of Position
DISTRICT OF COLUMBIA CIRCUIT	
District of Columbia.....	Full-Time
	Full-Time
	Full-Time
FIRST CIRCUIT	
Maine	
Portland...............	Full-Time
	Clerk/Mag.
Bangor.................	Part-Time
Massachusetts	
Boston.................	Full-Time
	Full-Time
	Full-Time
	Full-Time
Springfield............	Full-Time *
Worcester (or Ayer)....	Part-Time
Springfield............	Part-Time **
Cape Cod Nat. Seashore.	Part-Time
New Hampshire	
Concord................	Full-Time *
	Clerk/Mag.**
Rhode Island	
Providence.............	Full-Time
	Clerk/Mag.

*Funds for this position have been included in fiscal year 1984 budget submission.
**Position is scheduled to be discontinued upon appointment of a full-time magistrate at that location.

District and Location	Type of Position
Puerto Rico	
San Juan...............	Full-Time
	Full-Time
	Full-Time
SECOND CIRCUIT	
Connecticut	
New Haven..............	Full-Time
Hartford...............	Full-Time
Bridgeport.............	Full-Time
New York, Northern	
Syracuse...............	Full-Time
Albany.................	Full-Time
	Clerk/Mag.
Champlain (or Plattsburg)	Part-Time
Watertown..............	Part-Time
New York, Eastern	
Brooklyn...............	Full-Time
	Full-Time
	Full-Time
Hempstead..............	Full-Time
Patchogue..............	Part-Time
New York, Southern	
New York City..........	Full-Time
	Full-Time
	Full-Time
	Full-Time
	Full-Time
	Full-Time
	Full-Time
	Full-Time*
Poughkeepsie...........	Part-Time

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*Funds requested for this position included in FY 1984 budget submission.

District and Location	Type of Position
New York, Western	
Buffalo................	Full-Time
Rochester..............	Part-Time
Vermont	
Burlington.............	Full-Time
THIRD CIRCUIT	
Delaware	
Wilmington.............	Full-Time
New Jersey	
Newark.................	Full-Time
	Full-Time
	Full-Time
Trenton................	Full-Time
	Part-Time
Camden.................	Full-Time
Asbury Park............	Part-Time
Atlantic City..........	Part-Time
Pennsylvania, Eastern	
Philadelphia...........	Full-Time
	Full-Time
	Full-Time
	Full-Time
	Full-Time
Allentown..............	Part-Time

District and Location	Type of Position
Pennsylvania, Middle	
Wilkes-Barre...........	Full-Time
Harrisburg.............	Full-Time
Scranton...............	Part-Time
Williamsport...........	Part-Time
Stroudsburg............	Part-Time
Pennsylvania, Western	
Pittsburgh.............	Full-Time
	Full-Time
Erie...................	Part-Time
Johnstown..............	Part-Time
Virgin Islands	
Charlotte-Amalie.......	Clerk/Mag
Christiansted..........	Part-Time
FOURTH CIRCUIT	
Maryland	
Baltimore..............	Full-Time
	Full-Time
	Full-Time
	Full-Time
Prince Georges Plaza...	Full-Time
Upper Marlboro.........	Part-Time
Hagerstown.............	Part-Time
Salisbury..............	Part-Time

District and Location	Type of Position
North Carolina, Eastern	
Raleigh................	Full-Time
	Clerk/Mag
New Bern...............	Full-Time
Fayetteville...........	Full-Time
	Part-Time*
Wilmington.............	Part-Time
North Carolina, Middle	
Greensboro.............	Full-Time
Winston-Salem..........	Full-Time
North Carolina, Western	
Asheville..............	Full-Time
Charlotte..............	Part-Time
South Carolina	
Columbia...............	Full-Time
	Part-Time
Charleston.............	Full-Time
Greenville.............	Full-Time
Florence...............	Part-Time
Aiken..................	Part-Time
Virginia, Eastern	
Alexandria.............	Full-Time
	Full-Time
	Full-Time
Norfolk................	Full-Time
	Full-Time
Richmond...............	Full-Time
	Part-Time
Williamsburg...........	Full-Time

*Position is scheduled to be discontinued upon appointment of a full-time magistrate at Fayetteville.

District and Location	Type of Position
Virginia, Western	
Roanoke	Full-Time
Charlottesville	Full-Time
Abingdon	Full-Time
Winchester	Part-Time
West Virginia, Northern	
Elkins	Full-Time
Morgantown (or Fairmont or Clarksburg)	Part-Time
Wheeling	Part-Time
Martinsburg	Part-Time
West Virginia, Southern	
Charleston	Full-Time
Huntington	Full-Time
Bluefield	Part-Time
Logan	Part-Time*
Lewisburg	Part-Time
Parkersburg	Part-Time
FIFTH CIRCUIT	
Louisiana, Eastern	
New Orleans	Full-Time
	Full-Time
	Full-Time
	Full-Time
	Full-Time
Louisiana, Middle	
Baton Rouge	Full-Time
	Part-Time

*Position is scheduled to be discontinued.

District and Location	Type of Position
Louisiana, Western	
Shreveport.............	Full-Time
Lafayette..............	Full-Time
Alexandria.............	Part-Time
Lake Charles...........	Part-Time
Monroe.................	Part-Time
Mississippi, Northern	
Greenville.............	Full-Time
Aberdeen (or Oxford)...	Full-Time
Oxford.................	Clerk/Mag
Mississippi, Southern	
Biloxi (or Gulfport)...	Full-Time
Jackson................	Full-Time
Jackson/Biloxi/Gulfport	Full-Time*
Texas, Northern	
Dallas.................	Full-Time
	Full-Time
Fort Worth.............	Full-Time
Lubbock................	Full-Time*
	Bkcy/Mag.**
Wichita Falls..........	Part-Time
Amarillo...............	Part-Time
Abilene................	Part-Time
San Angelo.............	Part-Time
Texas, Eastern	
Beaumont...............	Full-Time
	Full-Time*
Tyler..................	Full-Time
Sherman................	Part-Time
Texarkana..............	Part-Time

*Funds requested in FY 1984 budget submission.

**Part-time magistrate authorized to serve at Lubbock until appointment of full-time magistrate position at that location.

District and Location	Type of Position
Texas, Southern	
Houston................	Full-Time
	Full-Time
	Full-Time
	Full-Time
Brownsville............	Full-Time
	Full-Time *
	Part-Time **
Laredo.................	Full-Time
Corpus Christi.........	Full-Time
McAllen (or Edinburg)..	Part-Time
Texas, Western	
San Antonio............	Full-Time
	Full-Time
	Part-Time
El Paso................	Full-Time
	Full-Time
Austin.................	Full-Time
Waco...................	Part-Time
Pecos..................	Part-Time
Del Rio................	Part-Time ***
Del Rio (or Eagle Pass)	Full-Time *
Eagle Pass.............	Part-Time ***
Big Bend National Park.	Part-Time
Midland (or Odessa)....	Part-Time
SIXTH CIRCUIT	
Kentucky, Eastern	
Lexington..............	Full-Time
Ashland (or Catlettsburg)	Full-Time
London.................	Part-Time
Covington..............	Part-Time

*Funding for this position has been included in the FY 1984 budget submission.

**Position is scheduled to be discontinued upon appointment of a full-time magistrate at Brownsville.

***Position is scheduled to be discontinued upon appointment of a full-time magistrate at Del Rio (or Eagle Pass).

District and Location	Type of Position
Kentucky, Western	
Louisville.............	Full-Time
	Clerk/Mag
Paducah................	Full-Time
Hopkinsville...........	Part-Time
Bowling Green..........	Part-Time
Owensboro..............	Part-Time
Michigan, Eastern	
Detroit................	Full-Time
	Full-Time
	Full-Time
	Full-Time
	Full-Time
	Full-Time
	Full-Time*
Bay City...............	Bkcy/Mag.**
Flint..................	Part-Time
Michigan, Western	
Grand Rapids...........	Full-Time
	Full-Time
Kalamazoo..............	Part-Time
Marquette..............	Part-Time
Traverse City..........	Part-Time
Ohio, Northern	
Cleveland..............	Full-Time
	Full-Time
Akron..................	Full-Time
Toledo.................	Full-Time
Lima...................	Part-Time

*Funds for this position requested in FY 1984 budget submission.
**The district is authorized to convert at any time this position to a part-time magistrate position.

District and Location	Type of Position
Ohio, Southern	
Cincinnati.............	Full-Time
Columbus...............	Full-Time
	Full-Time
Dayton.................	Full-Time
Portsmouth.............	Part-Time
Steubenville...........	Part-Time
Tennessee, Eastern	
Knoxville..............	Full-Time
Chattanooga............	Full-Time
Gatlinburg (or Sevierville).....	Part-Time*
Greeneville............	Part-Time
Tennessee, Middle	
Nashville..............	Full-Time
Columbia...............	Part-Time
Tennessee, Western	
Memphis................	Full-Time
	Full-Time
SEVENTH CIRCUIT	
Illinois, Northern	
Chicago................	Full-Time
	Full-Time
	Full-Time
	Full-Time
Freeport (or Rockford)	Part-Time

*Funds for this position have been included in the FY 1984 budget submission.

District and Location	Type of Position
Illinois, Central	
Springfield............	Full-Time
Rock Island............	Part-Time
Peoria.................	Part-Time
	Clerk/Mag
Danville...............	Bkcy/Mag
Illinois, Southern	
Benton.................	Full-Time
East St. Louis.........	Full-Time
Indiana, Northern	
Hammond................	Full-Time
South Bend.............	Full-Time
Fort Wayne.............	Part-Time
Lafayette..............	Part-Time
Indiana, Southern	
Indianapolis...........	Full-Time
	Full-Time
	Full-Time
Evansville.............	Part-Time
Terre Haute............	Part-Time
New Albany.............	Part-Time
Muncie.................	Part-Time
Wisconsin, Eastern	
Milwaukee..............	Full-Time
	Full-Time*
	Part-Time**
	Clerk/Mag**
Appleton...............	Part-Time
Green Bay..............	Part Time

*Funds for this position have been requested in the FY 1984 budget submission.
**Position is scheduled to be discontinued upon appointment of full-time magistrate at Milwaukee.

District and Location	Type of Position
Wisconsin, Western	
Madison................	Full-Time
	Clerk/Mag
Ashland................	Part-Time
Eau Claire.............	Bkcy/Mag.
Tomah..................	Part-Time
Wausau.................	Part-Time
EIGHTH CIRCUIT	
Arkansas, Eastern	
Little Rock............	Full-Time
	Full-Time
Jonesboro..............	Part-Time
West Memphis...........	Part-Time
Arkansas, Western	
Fort Smith.............	Full-Time
Hot Springs............	Part-Time
Harrison...............	Part-Time
El Dorado..............	Part-Time
Texarkana..............	Part-Time
Iowa, Northern	
Cedar Rapids...........	Full-Time
Sioux City.............	Part-Time
Dubuque................	Part-Time
Iowa, Southern	
Des Moines.............	Full-Time
Council Bluffs.........	Part-Time
Burlington.............	Part-Time

District and Location	Type of Position
Minnesota	
Minneapolis............	Full-Time
Minneapolis (or St. Paul)	Full-Time
St. Paul...............	Full-Time
Duluth.................	Full-Time*
	Bkcy/Mag.**
Bemidji................	Part-Time
Missouri, Eastern	
St. Louis..............	Full-Time
	Full-Time
	Full-Time
Cape Girardeau.........	Part-Time
Ozark National Scenic Riverways............	Part-Time
Hannibal...............	Part-Time
Missouri, Western	
Kansas City............	Full-Time
	Full-Time
Springfield............	Full-Time
Nebraska	
Omaha..................	Full-Time
Lincoln................	Full-Time
Gering (or Scottsbluff)	Part-Time
North Platte...........	Part-Time
North Dakota	
Bismarck...............	Part-Time
Fargo..................	Part-Time
Grand Forks............	Part-Time
Devils Lake (or Minnewaukan).....	Part-Time
Minot..................	Part-Time
Rolla..................	Part-Time

*Funds for this position have been included in the FY 1984 budget submission.

**Authority of the bankruptcy judge to serve as a part-time magistrate will be discontinued upon the appointment of a full-time magistrate at Duluth.

District and Location	Type of Position
South Dakota	
Pierre.................	Part-Time
Rapid City.............	Part-Time
Sioux Falls............	Part-Time
Aberdeen...............	Part-Time
NINTH CIRCUIT	
Alaska	
Anchorage..............	Full-Time
Fairbanks..............	Part-Time
Juneau.................	Part-Time
Ketchikan..............	Part-Time
Kodiak.................	Part-Time
Nome...................	Part-Time
Arizona	
Phoenix................	Full-Time
	Full-Time
Tucson.................	Full-Time
	Part-Time
Grand Canyon Nat. Park.	Part-Time
Yuma...................	Part-Time
Window Rock (or Tuba City)	Part-Time
Flagstaff..............	Part-Time
Kingman................	Part-Time
Page...................	Part-Time

District and Location	Type of Position
California, Northern	
San Francisco..........	Full-Time
	Full-Time
	Full-Time
	Full-Time
Oakland (or San Francisco)	Full-Time*
Oakland................	Part-Time**
Monterey (or Salinas)..	Part-Time
San Jose...............	Part-Time
Eureka.................	Part-Time
California, Eastern	
Sacramento.............	Full-Time
	Part-Time
Fresno.................	Full-Time
Yosemite Nat. Park.....	Full-Time
Sequoia and Kings Canyon Nat. Parks....	Part-Time
Redding................	Part-Time
Bakersfield............	Part-Time
Bishop.................	Part-Time
South Lake Tahoe.......	Part-Time
Merced.................	Part-Time
Susanville.............	Part-Time
Yreka..................	Part-Time
Alturas................	Part-Time

*Funds for this position have been included in the FY 1984 budget submission.

**Position is scheduled to be discontinued upon appointment of a full-time magistrate at Oakland (or San Francisco).

District and Location	Type of Position
California, Central	
Los Angeles...........	Full-Time
	Full-Time
	Full-Time
	Full-Time
	Full-Time
	Full-Time
	Full-Time
San Bernardino.........	Part-Time
San Luis Obispo........	Part-Time
Santa Ana..............	Part-Time
Long Beach.............	Part-Time
Santa Barbara..........	Part-Time
Lancaster..............	Part-Time
Oxnard (or Ventura)....	Part-Time
Barstow (or Victorville)	Part-Time
Twentynine Palms.......	Part-Time
California, Southern	
San Diego..............	Full-Time
	Full-Time
	Full-Time
	Full-Time
El Centro..............	Part-Time

District and Location	Type of Position
Hawaii	
Honolulu...............	Full-Time
	Part-Time
Hilo....................	Part-Time
Johnston Island.........	Part-Time
Lihue...................	Part-Time
Wailuku.................	Part-Time
Idaho	
Boise...................	Full-Time*
	Part-Time**
Pocatello...............	Part-Time
Coeur d'Alene (or Moscow	Part-Time
Montana	
Billings................	Full-Time
Great Falls.............	Part-Time
Kalispell...............	Part-Time
Butte...................	Part-Time
Missoula................	Part-Time
Wolf Point..............	Part-Time
Helena..................	Part-Time
Glasgow.................	Part-Time
Bozeman.................	Part-Time
Cut Bank................	Part-Time
Nevada	
Las Vegas...............	Full-Time
	Part-Time
Reno....................	Full-Time
Oregon	
Portland................	Full-Time
	Full-time
Eugene..................	Full-Time
Pendleton...............	Part-Time
Bend....................	Part-Time
Coquille................	Part-Time

*Funds for this position have been included in the FY 1984 budget submission.

**Position is scheduled to be discontinued upon appointment of a full-time magistrate at Boise.

District and Location	Type of Position
Washington, Eastern	
Spokane................	Full-Time
Yakima.................	Part-Time
Washington, Western	
Seattle................	Full-Time
	Full-Time
Tacoma.................	Full-Time
Mr. Rainier Nat. Park..	Part-Time
Olympic National Park..	Part-Time
Bellingham.............	Part-Time
Vancouver..............	Part-Time
TENTH CIRCUIT	
Colorado	
Denver.................	Full-Time
	Full-Time
	Full-time
Grand Junction.........	Part-Time
Colorado Springs.......	Part-Time
Rocky Mountain Nat. Pk.	Part-Time
Durango................	Part-Time
Cortez.................	Part-Time
Steamboat Springs (or Craig)...........	Part-Time
Monte Vista............	Part-Time
Kansas	
Kansas City............	Full-Time
Topeka.................	Full-Time
Wichita................	Full-Time
Junction City..........	Part-Time
Leavenworth............	Part-Time
Colby..................	Part-Time
Garden City............	Part-Time
Parsons................	Part-Time

District and Location	Type of Position
New Mexico	
Albuquerque............	Full-Time
	Part-Time
Las Cruces.............	Part-Time
Alamogordo.............	Part-Time
Gallup.................	Part-Time
Santa Fe...............	Part-Time
Portales (or Clovis)...	Part-Time
Farmington.............	Part-Time
Roswell................	Part-Time
Oklahoma, Northern	
Tulsa..................	Full-Time
	Clerk/Mag
Miami..................	Part-Time
Oklahoma, Eastern	
Muskogee...............	Part-Time
Sulphur................	Part-Time
Hugo...................	Part-Time
McAlester..............	Part-Time
Oklahoma, Western	
Oklahoma City..........	Full-Time
	Full-Time
	Part-Time
Lawton.................	Part-Time
Altus..................	Part-Time
Enid...................	Part-Time
Utah	
Salt Lake City.........	Full-Time
	Clerk/Mag**
	Part-Time*
Cedar City.............	Part-Time
Monticello (or Moab)...	Part-Time
Vernal (or Roosevelt)..	Part-Time

*Funds for this position have been requested in the FY 1984 budget submission.

**Position is scheduled to be discontinued upon appointment of a part-time magistrate at Salt Lake City.

District and Location	Type of Position
Wyoming	
Yellowstone............	Full-Time
Cheyenne...............	Clerk/Mag
Jackson................	Part-Time
Lander.................	Part-Time
Sheridan...............	Part-Time
Casper.................	Part-Time
Cody...................	Part-Time
Green River............	Part-Time
Rawlins................	Part-Time
Worland................	Part-Time
ELEVENTH CIRCUIT	
Alabama, Northern	
Birmingham.............	Full-Time
	Full-Time
	Full-Time
Decatur (or Huntsville)	Part-Time
Alabama, Middle	
Montgomery.............	Full-Time
Dothan.................	Part-Time
Opelika................	Part-Time*
Alabama, Southern	
Mobile.................	Full-Time
	Full-Time
Selma..................	Part-Time

*Position is scheduled to be discontinued.

District and Location	Type of Position
Florida, Northern	
Pensacola..............	Full-Time
Tallahassee............	Part-Time
Panama City............	Part-Time
Gainesville............	Part-Time
Florida, Middle	
Jacksonville.. ...	Full-Time
	Full-Time
Orlando................	Full-Time
Tampa..................	Full-Time
	Full-Time
Ft. Myers..............	Part-Time
Florida, Southern	
Miami..................	Full-Time
	Full-Time
	Full-Time
	Full-Time
	Full-Time*
Fort Lauderdale........	Full-Time
Key West...............	Part-Time
Fort Pierce............	Part-Time

*Funds for this position have been included in the FY 1984 budget submission.

District and Location	Type of Position
Georgia, Northern	
Atlanta................	Full-Time
	Full-Time
	Full-Time
	Full-Time
Rome....................	Part-Time
Gainesville............	Part-Time
Newnan (or La Grange)..	Part-Time
Georgia, Middle	
Columbus...............	Part-Time
Macon..................	Part-Time
Albany.................	Part-Time
Valdosta...............	Part-Time
Georgia, Southern	
Augusta................	Full-Time
Savannah...............	Full-Time
Brunswick (or Waycross)	Part-Time
Swainsboro.............	Part-Time

QUESTION:

What plans are there for magistrate positions at all district courts?

ANSWER:

The Judicial Conference of the United States will continue to provide close oversight of the federal magistrate system through regular and special reviews of the needs of each of the district courts as conditions change in the future. Each position is established based on a case-by-case review of the particular needs of the district court.

Currently, 92 of the 94 judicial districts have magistrates. At its September 1983 session, the Judicial Conference will consider requests for 16 additional full-time positions in 14 districts. The Conference will also consider whether 9 full-time and 19 part-time magistrate positions should be continued for additional terms of office. In making its determinations on each position, the Judicial Conference will consider a detailed report of the Director of the Administrative Office, which addresses workload factors and utilization of the magistrates, and the recommendations of its Magistrates Committee, the pertinent district court and circuit council, and the Director.

QUESTION:

The Judiciary is requesting 46 deputy clerks for the courts of appeals and 430 deputy clerks for the district courts. This is based partly on a new formula of 75 cases per clerk. Why was the formula changed from 100/1? What are the elements of the formula, and has it been empirically tested?

ANSWER:

There are two separate formulas used in allocating deputy clerk positions to the courts of appeals and the district courts. The formula used for the courts of appeals is 75 case filings per deputy clerk. This formula has been used since 1975 and has not been changed.

The formula used for the district courts was recently changed from 100 case filings and "equivalents" per deputy clerk to a new formula based on many factors, including case filings, number of judges, appeals, juror days, attorneys admitted, and other factors. This new formula was developed by means of a detailed work measurement study of the district courts conducted in 1981. The work measurement study included on-site analysis of 20 court locations and a detailed questionnaire to all of the other district courts. The study was performed using operational audit which is in accordance with generally accepted work measurement principles.

QUESTION:

Expert services in the defender services are slated to increase by $122,000 in 1984. On what basis are these fees paid? Does the Administrative Office audit bills submitted by experts?

ANSWER:

Panel Attorneys. Compensation vouchers of persons providing investigative, expert, and other services under subsection (e) of the Criminal Justice Act, 18 U.S.C. 3006A, are submitted to the

Administrative Office for payment after they have been reviewed and approved by the appropriate judicial officer. Services must be "necessary for an adequate defense." If the services are obtained by counsel without securing prior judicial authorization, compensation is limited to $150. If prior authorization has been obtained, compensation is limited to $300 unless the judge or magistrate certifies that the "maximum" should be waived "to provide fair compensation for services of an unusual character or duration, and the amount of the excess payment is approved by the chief judge of the circuit."

Federal Public and Community Defender Organizations. Federal Public and Community Defender Organizations are provided individual budget and grant authority to obtain investigative, expert, and other services.

Payment. In Federal Public Defender and panel attorney cases, the Administrative Office conducts a pre-payment audit of all vouchers submitted by persons providing investigative, expert, and other services. The vouchers are reviewed to ensure compliance with the Criminal Justice Act and with the Guidelines for the Administration of the Criminal Justice Act. The Guidelines, which are promulgated by the Judicial Conference of the United States, prescribe procedures and set forth policy relating to investigative, expert, and other services.

Community Defender Organizations make payments directly to persons providing investigative, expert, and other services. Under the terms and conditions of the Community Defender Organization grants, Community Defender Organizations must make available to the Administrative Office, upon request, records relating to the expenditure of grant funds. The Administrative Office may disallow any questionable and inappropriate expenditures. In addition, Community Defender Organizations annually submit certified financial audits of their financial operations to the Administrative Office.

QUESTION:

The amount of $1,912,000 is requested to expand automated systems in the district courts and courts of appeals. Is this part of a phased-in plan for automation throughout the system? If so, what are the outyear costs associated with the plan?

ANSWER:

Six major Courtran systems were declared operational and transferred to the Administrative Office on October 1, 1982. The Civil system, developed and pilot tested by the Federal Judicial Center, is due to be transferred in fiscal year 1984.

The Administrative Office is now responsible for the operation, maintenance and implementation of these Courtran systems, which provide a wide range of automated services to the courts. The sum of $960,000 is requested to extend the use of these proven systems to additional courts. Included in the $1.9 million dollar request is money to expand electronic mail to additional circuits and access of the automated state law enforcement system to additional Probation Offices. The funds requested for the District Court Financial Management System and the Small and Medium Court Automation project will be used to provide small computers in the courts to assist the courts with fiscal, administrative, and case management.

Automated support to the courts has been provided since 1976 by central computers in Washington with over three hundred terminals in the courts accessing these machines over a commercial telecommunications network. There are a number of elements in the current computer market place that have major significance for automation in the Judiciary. Telecommunications and software costs, and decreased hardware costs have caused the Administrative Office and the Federal Judicial Center to actively plan to decentralize much of the data processing load out to the courts, while keeping a small centralized operation for those applications that must be centralized.

We do not have cost figures at this time that shows the outyear budgetary impact of court automation. However, the Judiciary will include in the fiscal year 1985 budget submission an ADP plan complete with the estimated budgetary impact through fiscal year 1987.

QUESTION:

Five million dollars is requested for drug aftercare treatment. How effective has this program been in preventing drug related crimes among those being treated?

ANSWER:

The goal of the Drug Aftercare Program is to protect society and help the offender eliminate his/her dependency on drugs. Probation officers are expected to employ all appropriate program resources in dealing with the dependency problem. Every effort is made by probation staff and contract agencies to intervene in an offender's life to prevent a continuation of, or return to, drug use. When interventions fail, the offender is then removed from the community.

In a review of persons enrolled in the Drug Aftercare Program who were removed from supervision during the year ended June 30, 1981, 51 percent successfully completed supervision. Forty-nine percent of the persons were removed for violation, 31 percent for technical violations and 19 percent as a result of new convictions. Probationers in aftercare were more successful than parolees, with 60 percent successfully completing supervision. Of the 40 percent who were removed for violations, 27 percent were removed for technical violations and 13 percent were removed as a result of new convictions. Only 46 percent of parolees in aftercare successfully completed supervision, with 31 percent removed for technical violations and 23 percent removed as a result of new convictions. During the same time period, 81 percent of the total number of persons removed from supervision successfully completed that supervision. Of the 19 percent removed for violations, 12 percent were removed for technical violations and 7 percent as a result of new convictions.

In an evaluation study of the aftercare program completed in April 1982, over 1,200 case files in ten districts were reviewed by a private consulting firm under contract to the Federal Judicial Center. The study found that 27 percent of the persons in the study were rearrested at least once after entering the aftercare program. Of those rearrested, the largest group (45 percent) were those who were arrested for crimes against property. Crimes against persons accounted for 15 percent of the arrests while 11 percent were arrested for combined person and property offenses. Twenty-nine percent of the arrests were for drug offenses.

Approximately 10 percent of the aftercare population in the study was convicted of an arrest which occurred subsequent to entry into the aftercare program. Crimes against property accounted for 59 percent of the convictions while 13 percent were crimes against persons. Six percent were convicted for multiple crimes against person and property or a single crime with both elements while 22 percent of the convictions were for drug offenses.

QUESTION:

Describe the process by which the decision was made to use the "Insta-Cite" citation verification system rather than a competing system.

ANSWER:

On December 29, 1982, the Administrative Office made a decision not to make a noncompetitive award to The Lawyers Co-operative Publishing Company ("LCP") for its citator system called "Auto-Cite." The history and basis of that decision and the subsequent introduction of "Insta-Cite" is fully explained below.

In August 1982, the Administrative Office issued a Request for Proposals ("RFP") for a full-text, interactive computer-assisted legal research ("CALR") system, specifying that, among other things, the CALR system must contain 12 mandatory features, one of which is a "Citator capability" (RFP at F.3.3.2.2(1)). The intent to issue an RFP was appropriately synopsized in the *Commerce Business Daily* and RFP's were mailed to 73 vendors. The Administrative Office received only three proposals: an unresponsive proposal from Systems Architects, Inc., which was rejected; and two responsive proposals, one from West Publishing Company ("West") offering WESTLAW and the other from the incumbent contractor Mead Data Central ("Mead") offering LEXIS, which were evaluated by a five-member Technical Evaluation Panel. In response to the mandatory requirement that the CALR system have a "Citator capability," West offered two citators (an internal citator and Shepard's Citations) and Mead offered three citators (an internal citator, Shepard's Citations, and a citator developed by LCP called Auto-Cite). Even though Mead received bonus points for its extra citator, West outscored Mead in the overall evaluation, which included an evaluation of all 12 mandatory features; the mandatory support requirements; the offeror's experience, business reputation, capacity and responsibility; the evaluated optional features; and the costs. Thus, under applicable Federal Procurement Regulations governing fully competitive procurements, the Administrative Office was required to award the contract to West and did so on October 1, 1982. The contract with West is for fiscal year 1983 and has a renewal provision that permits the Administrative Office to renew the contract on an annual basis for the next four years if it is in the best interest of the Government to do so. (This type of renewal provision is customary in contracts for automated data processing equipment and services and the RFP clearly disclosed that the system life is five years.) Cutover from the Mead system to the West system occurred on November 15, 1982.

Mead, represented by the Washington law firm of Covington & Burling, filed a timely protest against the award to West with the General Accounting Office on October 22, 1982, and after debriefings by the Administrative Office, Mead withdrew its protest on December 10, 1982.

On December 8, 1982, LCP submitted an unsolicited proposal requesting that the Administrative Office make a noncompetitive award to it for Auto-Cite. Notwithstanding that the Administrative had fully evaluated Auto-Cite and its relative merit as a single feature in reviewing the proposal submitted by Mead, the Administrative Office fully evaluated LCP's request. On December 29, 1982, the Administrative Office notified LCP that it was unable to make a noncompetitive award to it for Auto-Cite.

On or about the first week in April 1983, West made a minor enhancement of its full-text system by adding another citator, increasing the number of citators available on WESTLAW from two to three. The new citator called "Insta-Cite" automatically appears on the menu (the listing of databases) and a user may elect to access the new citator or any of the other available databases. There is no extra or separate charge for accessing the new citator. The Administrative Office is billed at a set rate for CALR services regardless of what databases are accessed.

In procurement jargon the enhancement of the citator capability represents a modification within the scope of the existing contract with West. At the time the contract was awarded to West it fully met the requirement for having a "Citator capability" by offering two citators. During the term of the contract West made a minor enhancement of the CALR system's capability by adding a third citator. Mead, which is the only other vendor who offers a full-text, interactive CALR system that meets the mandatory technical and support requirements, was fully evaluated against West when West did not have this enhancement and West outscored Mead. The Administrative Office does not have a legitimate need for a CALR system that is not full-text, only performs a single function, and consequently meets only one of the 12 technical mandatory requirements, such as LCP's Auto-Cite. Thus, if West had not enhanced its database by adding the new citator, the Administrative Office, which does not have an independent need for a new citator, would not go out and procure this service.

QUESTION:

How much is spent by the courts for computer-assisted legal research? What is the estimate for fiscal year 1984?

ANSWER:

The Administrative Office currently has contractual arrangements for computer-assisted legal research services totaling approximately $840,000 in fiscal year 1983. Of this amount, $600,000 is with West Publishing for access to its Westlaw system, $150,000 is for an interagency Automated Legal Research (ALR) pilot project with the Department of Justice for their JURIS terminals, which will also access LEXIS and Westlaw, and $90,000 was to extend our fiscal year 1982 contract with Mead Data for LEXIS from October 1, 1982 to November 15, 1982. This extension is a nonrecurring expense and was necessary to continue LEXIS services during the transition from LEXIS to Westlaw in fiscal year 1983.

The sum of $775,000 will be necessary in fiscal year 1984 to fund computer-assisted research services. This estimate assumes that the Administrative Office will continue the contractual agreements with the same vendors and at the same level of service as that which is currently being supplied. This estimate does not include the $90,000 contract extension with Mead Data which was a one-time expense and will not recur in fiscal year 1984.

QUESTION:

This Committee two years ago authorized, on a pilot basis, five district court executives. How many district court executives have been appointed to date and what are the results of this pilot program?

ANSWER:

To date, three district court executives have been appointed, one each in the following districts: Michigan (Eastern), New York (Southern), and Florida (Southern).

As of this date, no formal review of the pilot program has been conducted. However, when all five district court executives have been appointed, the Federal Judicial Center will conduct an evaluation of the program.

QUESTION:

Please submit for the record, a statement which will reflect your current projections for the fiscal years 1983 and 1984 of the number of filings in the courts of appeals, civil and criminal filings in the district courts, filings in the bankruptcy courts, and the supervisory and investigative work of probation offices and how these compare with estimates provided in the justification.

ANSWER:

The statement follows.

FISCAL YEARS 1983 AND 1984 WORKLOAD
BUDGET JUSTIFICATION ESTIMATES COMPARED WITH CURRENT PROJECTIONS

	FY 1984 Budget Justification Estimate		Current Projection	
	1983	1984	1983	1984
Courts of Appeals Filings.....	31,000	32,500	31,000	32,500
District Courts				
Civil Filings...............	225,000	245,000	225,000	245,000
Criminal Filings............	34,900	36,700	34,900	36,700
Bankruptcy Courts				
Estate Filings..............	525,000	450,000	565,000	465,000
Adversary Proceedings.......	195,000	240,000	195,000	240,000
Probation Service				
Clients Under Supervision:				
High Supervision..........	22,200	22,800	23,300	24,800
Low Supervision...........	37,800	38,700	39,700	42,200
Pre- and Post-Sentence Reports..................	29,300	30,700	30,500	32,400
Collateral Reports..........	22,000	22,400	25,000	27,000
Violation Reports...........	13,200	13,600	12,900	13,200
Drug Aftercare Clients......	5,300	5,300	4,700	4,700
Travel Mileage..............	6,777,300	6,777,300	7,636,000	8,140,000

QUESTION:

In your budget amendment, you requested 313 positions for pretrial services. Can we defer some of these positions until we get some indication as to the extent these functions can be absorbed by probation officers?

ANSWER:

No. The request for additional pretrial services officers is based on workload factors over and beyond the current workload of probation officers. Regardless of how the pretrial function is organized, as a separate agency or within the probation office, there will be an increase in the workload. Our request for staff to manage probation work alone calls for an increase of 73 positions.

QUESTION:

The General Accounting Office recently rendered a report on defender services which was somewhat critical. Have you responded and, if so, can you provide this Committee a copy of the letter for the record?

ANSWER:

In accordance with 31 U.S.C. 1176(1), a written statement was submitted to the Chairmen of the House Committee on Government Operations and the Senate Committee on Governmental Affairs regarding action taken with respect to the recommendations of the General Accounting Office report. A copy of this letter follows:

ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS
WASHINGTON, D.C. 20544

April 4, 1983

Honorable William V. Roth, Jr.
Chairman, Committee on
Governmental Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

In accordance with the provisions of section 1176 of Title 31, United States Code, I wish to inform you of the actions taken by this Agency in response to the recommendations contained in the General Accounting Office report to the Congress on the administration of the Criminal Justice Act, GAO/GGD-83-18, dated February 18, 1983. The positions of this agency on issues not discussed below were set forth in my letter of September 29, 1982, to Mr. William J. Anderson commenting on the proposed draft GAO report and remain unchanged. This letter is included as Appendix VIII of the final GAO report.

I. Panel Attorney Selection

At its meeting last month, the Judicial Conference approved for inclusion in the Guidelines for the Administration of the Criminal Justice Act a "Model Plan for the Composition, Administration, and Management of the Panel of Private Attorneys under the Criminal Justice Act." As I stated in my September 29, 1982, letter, this Model Plan was developed to provide assistance and guidance in the establishment and administration of Criminal Justice Act panels. Copies of the Model Plan have already been distributed to the Chief Judges of all district and circuit courts. We are in the process of incorporating the Model Plan into the Guidelines for the

Administration of the Criminal Justice Act and will encourage the courts to develop formal eligibility standards and institute the recommended screening procedures for the selection of panel members.

II. Support for Attorney Compensation Claims

With respect to our practice of not requiring strict compliance with the guideline calling for submission of a detailed memorandum in connection with claims for attorney compensation in excess of $400, we will review the sufficiency of the supporting information presently provided with such claims, determine the incidence of any inappropriate or unjustified claims, and, if warranted, modify our requirements to ensure compliance. We will also consider and recommend to the Criminal Justice Act Committee of the Judicial Conference appropriate changes to policies and guidelines in this regard.

III. Reimbursement Determinations

We will continue to assist in the development of practical and more definite criteria, consistent with constitutional standards, to be used by judicial officers in deciding when to order reimbursement of Criminal Justice Act costs. The utilization of probation officers and pretrial services agencies to improve the quality of financial data and to provide recommendations on eligibility and ability to contribute will be considered by appropriate divisions of this agency and committees of the Judicial Conference.

IV. Monitoring Reimbursement Payments of CJA Defendants

The GAO recommendations concerning the establishment of more effective controls over reimbursements for CJA services has caused us to reevaluate our current practices and procedures in this regard. As a result, we anticipate that more formal guidance and direction to court officials will be promulgated in the near future. These new initiatives will relate to:

1) the entering of orders for immediate tendering of available funds, as well as those for periodic payments toward court ordered assessments;

2) the establishment of more formal financial controls and monitoring procedures to facilitate the collection and disposition of such funds and to apprise appropriate officials of the status of delinquent accounts so that collection action may be considered.

V. Procedures for Disbursing Funds to Community Defender Organizations

Although all Community Defender Organizations have been directed to place unexpended grant funds in secure interest-bearing accounts, and interest rates (and the resultant cost of debt service to the government) have fallen in recent months, we are considering increasing the frequency of grant payments. We expect to develop proposed new procedures, to discuss them with the grantee organizations and, if appropriate, implement them by the start of fiscal year 1984.

VI. Criminal Justice Act Rates

We fully support GAO's recommendation that the Congress should consider the need to increase hourly fee and maximum compensation limitations for attorneys and services provided under the Criminal Justice Act. Further delay in implementing adjustments is almost certain to seriously threaten the quality and availability of services which the Sixth Amendment to the Constitution guarantees.

If you or members of your Committee should have any questions or would like additional information, please do not hesitate to call or write me.

Sincerely,

William E. Foley

William E. Foley
Director

Identical letter sent to
Honorable Jack Brooks

QUESTION:

You have asked for $660,000 for electronic sound recording equipment. If this equipment is installed, can we expect a reduction in the number of court reporters presently authorized in the district courts?

ANSWER:

It was in part to determine whether there would be such savings that the Congress mandated the test of electronic sound recording that the Federal Judicial Center is currently conducting. The General Accounting Office estimated that $10,000,000 would be saved if all proceedings were recorded electronically, but the Congress, by mandating the experiment, indicated that it would be premature to state the magnitude of the savings--or indeed whether there would be any savings--until that study is completed.

For that reason, as the justification makes clear, the request for funds for equipment is a contingency request, because the results of the study, due this summer, may indicate to the Judicial Conference that use of electronic sound recording should not be allowed as an official court reporting method. If the equipment is purchased, it would be depreciated over a seven-year schedule.

If there are savings, they would presumably derive from the use of equipment operators, who will be compensated at a rate well below that currently provided official stenotype reporters. The equipment operators might be available for other tasks in the courthouse as well; official court reporters are not. Also, parties (including United States Attorneys and Criminal Justice Act counsel) could purchase sound recordings of proceedings (at an estimated $15.00 per tape) rather than purchase transcript of the entire proceedings. The taped record could be reviewed to identify only those pages of transcript that would have to be purchased to present the issue on appeal. In 1981, litigants (including the government) purchased over $14 million of transcript from salaried court reporters, and additional monies were paid to contractors.

QUESTION:

With regard to the 75 full-time bankruptcy judges and staff, is this contingent upon the judgeships being authorized by the Congress?

ANSWER:

The fiscal year 1984 appropriation request for 75 additional bankruptcy judgeships is based on the Judicial Conference recommendation to the President and the Congress that 304 judgeships will be required to meet the expanded role of the bankruptcy courts as provided for in the Bankruptcy Reform Act of 1978. Approval of this request is, however, contingent upon Congressional resolution of the jurisdictional problems created by the Supreme Court's holding in the recent Marathon case.

QUESTION:

What will happen to those bankruptcy judges presently serving if the Congress does not take any action prior to April 1, 1984, which is the end of the so-called transition period?

ANSWER:

The appointments of all bankruptcy judges holding office during the mandated transition period will terminate on March 31, 1984. To insure an orderly transition after that date, the Bankruptcy Reform Act provided for the voluntary retention of incumbent judges pending the presidential appointment and confirmation of their successors. Unless the Congress enacts remedial legislation, no new judges will be appointed after April 1, 1984.

QUESTION:

Have you considered what impact it will have on your budget if the United States Trustee Program currently in the Department of Justice budget terminates on April 1, 1984?

ANSWER:

Provision for the United States Trustee Program administered by the Department of Justice was not included in the President's fiscal year 1983 budget. Because of the functional importance inherent in the trustee position, the Judiciary prepared and transmitted a fiscal year 1983 budget amendment requesting additional deputy clerk-estate administration positions to support the bankruptcy courts in those districts then serviced by a United States trustee. Subsequent congressional action restoring budget authority and positions for this purpose in the Department of Justice appropriation negated the need for this amendment, and it was denied by the committee.

Title IV, section 408(c) of the Bankruptcy Reform Act provides for the termination of all United States trustee appointments effective April 1, 1984. If the United States Trustee Program is terminated on April 1, 1984, the Judiciary will have to submit a request similar to the 1983 budget amendment request for deputy clerk-estate administration positions.

QUESTION:

The additional funds you are requesting for "Court Security" in a budget amendment are required due to the elimination of station-

ary guards which have heretofore been funded by GSA. Has GSA offered to reduce your SLUC in view of the reduction in the level of protective services?

ANSWER:

When the Judiciary was initially informed that these services would be eliminated in 1983, we asked GSA if we would receive a reduction in rental charges, as was provided in fiscal year 1982, so that we could fund, on a reimbursable basis, those guards that were removed. GSA informed us that the money saved would be "used to upgrade security systems and increased law enforcement capability, ultimately enhancing, rather than decreasing, the degree of protection." This may be the case for those agencies that were not receiving fixed-post protection, but it certainly will reduce the level of protection to the Judiciary that is receiving fixed-post protection in certain court facilities.

QUESTION:

If these funds are for building security, which is a statutory responsibility of GSA, are you, for all intents and purposes, subsidizing GSA?

ANSWER:

GSA will continue to comply with its statutory responsibility and provide for some level of perimeter building security. However, it is the Judiciary's contention that this revised level of security is insufficient to adequately assure the security of judicial proceeding and court areas. Accordingly, it will be necessary to supplement the GSA security services funded directly from SLUC payments.

QUESTION:

Who will be responsible for the determination as to what constitutes an adequate level of security in a courthouse and the allocation of resources for equipment and personnel?

ANSWER:

In the Joint Statement of the Chief Justice and the Attorney General presented before the Judicial Conference of the United States on March 11, 1982, it was agreed to adopt the recommendations set forth in the Report of the Attorney General's Task Force on Court Security in developing a comprehensive security program for the courts. As such, the United States Marshals Service, in general, and each individual United States Marshal in each district, will assume primary responsibility and authority for the provision of security services to the Judiciary.

Under these recommendations, the United States Marshal will be required to conduct court security surveys of all judicial facilities in his district, develop a written security plan for each facility based upon the results of the respective security survey, and perform periodic reviews of operating security plans. In addition, the United States Marshal will be responsible for establishing court security committees, consisting of the United States Marshal, the United States District Court Chief Judge, the United States Attorney, the Clerk of Court, and a representative of the principal provider of building security for specific judicial facilities, to advise on the planning, implementation, and continuous review of the court security system for each judicial facility in their district.

QUESTION:

We understand that the developmental work with respect to the automation of functions in the courts is a responsibility of the Federal Judicial Center. Why have you included in your budget a request for two positions for developmental work and a pilot program relating to a Probation Information Management System?

ANSWER:

The two positions requested for the Probation Information Management System were not requested for developmental work. They were requested so that the Administrative Office would be able to effect the transfer of the project from the Federal Judicial Center, and so that the Administrative Office could provide operational support. They will be trained by the Federal Judicial Center during the pilot phase.

QUESTION:

With regard to your request for five additional positions for the "Bankruptcy Noticing Project," we authorized five positions for this purpose in fiscal year 1983. Can you report on the progress of this program and the number of courts that have or will soon have an automated system for the preparation and mailing of bankruptcy notices?

ANSWER:

The Bankruptcy Noticing System was developed under contract and operated for the New Jersey Bankruptcy Court in fiscal year 1981. Since August 1982, the Administrative Office has operated the system in-house, and in 1983 it was extended to the Eastern District of Kentucky. The Administrative Office plans to acquire a high-speed laser printer, a new computer, and data entry equipment for the participating courts during the remainder of fiscal year 1983 to improve and support the in-house operation of the system for the bankruptcy courts.

The Administrative Office has five positions allocated to this system. There are three computer operators to operate the central computer and printer. Two programmer/analysts are assigned to maintain and enhance the software, oversee system implementation, and train court personnel. In the fiscal year 1984 budget request, the Administrative Office has requested the five positions that were disallowed in the 1983 request.

The Bankruptcy Noticing System is in operation. Two courts are using the system and the extension of the system to the planned 20 courts is in progress. Since we only received five of the ten positions requested for fiscal year 1983, we have not been able to extend the system to as many courts as we planned for this year.

QUESTION:

Last year (fiscal year 1982) you returned to the Treasury an unobligated balance of $835,000. To what do you attribute this savings, and can we expect a similar savings in fiscal year 1983?

ANSWER:

Fiscal year 1982 was a very unusually year for the Federal Judicial Center and one which we do not expect will occur again. Earlier in that fiscal year, Congress passed the Federal Courts

Improvement Act of 1982 which, among other things, mandated a one-year test of alternative means of court reporting and further directed that this test be conducted during the one-year period following enactment. Because of the uncertainty as to the costs which would be required to conduct this test and the possibility that much of the cost would be obligated in fiscal year 1982, we deferred several projects to hold substantial funds in reserve. When the facts became clear late in the fiscal year, it was too late to obligate responsibly this money so it was returned to the Treasury.

Additionally, our Systems Division was in a state of transition during fiscal year 1982, and it had a number of positions vacant due to difficulty in recruiting well qualified research computer scientists. These vacancies have since been filled, and we do not expect a similar surplus in fiscal year 1983.

QUESTION:

You have requested four new positions, two for the development and pilot operation of a probation information management system and two for what you refer to as an evaluation of "distributed processing." Have you considered contracting out these functions rather than augmenting your staff?

ANSWER:

Yes, we have considered contracting out these functions and have concluded that they should, instead, be completed by government employees. Both projects involve actual systems development in a live judicial environment. Additionally, both projects must utilize the development approach, as well as the operating systems and software tools, used by the Center in other technologically-based development projects. To accomplish this, it is necessary for the individuals assigned development responsibility to work in our Systems Division along with other technical specialists, such as the Center's Data Base Manager, on a day-to-day basis. Finally, if the projects are successful, it will be desirable for the Judiciary to retain the services of the individuals who have developed the systems to allow for a maximum efficiency in subsequent maintenance and successful modification to accommodate appropriate variations.

QUESTION:

Has the Board of Directors of the Center taken any position or established a policy as it relates to performing certain functions by contracting services as they relate to research and various developmental projects?

ANSWER:

The Board of the Center has not established a general policy with regard to contracting services, but the Board does review every proposed development project in some detail, including the proposed method of completing each project.

QUESTIONS SUBMITTED BY SENATOR HOLLINGS

ADDITION TO CHARLESTON COURTHOUSE

QUESTION:

In 1981 we were able to get an addition to the Charleston Courthouse authorized and funded in the Continuing Resolution. How is that project coming along?

ANSWER:

The Charleston, South Carolina project is currently in the design stage. The contract architect and the General Services Administration are working with the court and the Administrative Office on the design. It is estimated that the construction will be completed in the fall of 1985.

SUPPORTING PERSONNEL FOR SENIOR JUDGES

Judge Clark, in connection with the request for 12 positions for senior judges, you reported to the Judicial Conference last September that the judicial councils of the circuits would be asked to provide information about the actual workload of senior judges. This information would enable you to respond to the directive of our House counterparts that the number of supporting personnel (secretaries and law clerks) authorized for senior judges should be related directly to workload performed.

QUESTION:

What information were you able to secure from the judicial councils?

ANSWER:

The Judicial Conference of the United States responded in accordance with House Report 97-721 (page 61) that the councils "should not only certify that a senior judge is performing 'substantial judicial duties,' but also should determine the number of supporting positions necessary based on actual workload." As a result of these responses, 29 positions have been or will be terminated at an annual savings of approximately $800,000 in salaries and related benefits. A similar review will be conducted annually on a fiscal year basis.

QUESTION:

How many judges are now in senior status?

ANSWER:

At present, 239 judges are in senior status.

SOCIAL SECURITY

QUESTION:

The Social Security Act Amendments of 1983 provide that all sitting judges as well as Federal employees appointed subsequent

to December 31, 1983, will come under social security effective January 1, 1984.

What is the Administrative Office's estimate of the additional fiscal year 1984 costs of extending social security to the judges and new judicial branch employees?

ANSWER:

The estimated additional cost for each of our appropriations is listed below:

COURT OF APPEALS FOR THE FEDERAL CIRCUIT...	$ 6,000
COURT OF INTERNATIONAL TRADE...............	4,000
COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES	
Salaries of judges....................	$1,800,000
Salaries of supporting personnel......	1,500,000
Magistrates...........................	500,000
Defender services.....................	25,000
Bankruptcy............................	605,000
Subtotal..........................	$4,430,000
ADMINISTRATIVE OFFICE.....................	10,000
FEDERAL JUDICIAL CENTER...................	44,000
TOTAL.................................	$4,494,000

The estimated cost provides for a 3 percent turnover rate in personnel. The total cost of all the personnel covered by social security at today's rates would be approximately $36 million.

COURT SECURITY

QUESTION:

What is the overall feeling in the Judiciary of the new arrangements for courtroom security?

ANSWER:

This is the first year of the new court security arrangement under which the United States Marshals Service has assumed primary responsibility and direction for providing security services to the Judiciary. It is also the first fiscal year in which a special, consolidated court security appropriations account has been established for the courts, to be administered by the Marshals Service.

The Marshals Service is moving rapidly to establish a new, comprehensive, nationwide security program, and it has only recently received the necessary delegation of procurement authority from GSA that will enable it to contract directly for guard services and security equipment and systems. The new arrangement with the Marshals Service appears to be working very well, but it is clearly too early to measure results. Substantial progress is being made in identifying the security needs of each federal court facility, in preparing inventories of existing resources, in transferring responsibilities from GSA to the marshals, in training personnel, in installing equipment, and in contracting for security officers.

While we are pleased with the development of the program of the marshals to improve security for court personnel and court proceedings, there is great concern and apprehension in the Judiciary over the announced plans of GSA to greatly reduce security at federal court facilities by withdrawing all guards and protective officers at the entrances of federal buildings by the end of this fiscal year. GSA plans to replace these fixed-post entrance guards with limited mobile patrols, monitoring devices, and post-incident criminal investigations. This means that the level of security provided at building entrances and perimeters will be substantially reduced.

The Marshals Service is not in the position, financially or legally, to pick up the slack left by GSA. The responsibility of the Marshals Service for court security in federal buildings extends to courtroom and adjacent areas. They do not have responsibility for building security, which remains the prerogative of GSA.

Adequate provision must be made to restore building security at federal buildings housing the courts, at least to the level of the last few years. Since GSA will not restore security, there appears to be no alternative for the courts but to seek additional appropriated funds from the Congress to replace the guard services that GSA is now in the process of withdrawing.

QUESTION:

In the justifications on page 13.6, there is the following statement:

> **"It is noted that because the protective requirements of the Federal Judiciary are unique and of a more specialized nature than most other Government agencies, the Marshals Service should be granted authority to contract with whatever organization is best staffed and equipped to meet the security needs of the courts."**

Does that statement imply the Marshals Service has not been given sufficient authority to contract with appropriate organizations for court security, or just what is the purpose of the statement?

ANSWER:

We have received the Delegation of Authority from the General Services Administration to contract for court security officers pursuant to the Federal Procurement Regulations.

QUESTION:

The long-range plan displayed on page 13.7 indicates that contract guards will increase from 376 in fiscal year 1983 to 1,000 in fiscal year 1987. Does this imply the Deputy United States Marshals will no longer be assigned to courtroom security?

ANSWER:

Deputy United States Marshals will be assigned to courtroom security pursuant to the criteria set forth in the Report of the Attorney General's Task Force on Court Security.

QUESTION:

Has anyone ever performed an A-76, or similar type study, to see if it really was cost beneficial to the Government, to hire these guards by contract instead of directly employing the necessary personnel?

ANSWER:

We are not aware of any A-76 study that has been performed to see if it was cost beneficial to hire guards by contract instead of direct employment.

QUESTION:

What will be the cost of this program in fiscal year 1987 if we more than double the contract guards?

ANSWER:

The Marshals Service estimates a recurring cost of $30,000,000 annually once the contract guard program is fully implemented.

QUESTION:

Are there now any places where a judge has arranged for security in the courtroom by court order?

ANSWER:

Courtroom security has not been provided as a result of a court order since the Attorney General and the Chief Justice issued their Joint Statement in March 1982. To our knowledge, there are not now any place(s) where a judge has issued a court order to arrange for security in the courtroom.

STATISTICS

QUESTION:

At last year's hearing, we noted the substantially greater number of criminal case filings anticipated by the Courts over the number projected by the United States Attorneys for fiscal year 1983. The 1983 numbers are a little closer in the 1984 justification, but the Judiciary's estimates on page 6.18 still projects 2,900 more criminal filings than Justice's estimates on page 26 of the United States Attorney's justifications. Even the so-called "actual" data for fiscal year 1982 shows a difference of 3,371 cases filed.

Please explain the differences in these numbers.

ANSWER:

The difference between the actual data for 1982 results from the inclusion in court figures of a substantial number of misdemeanor traffic cases from military reservations and national parks. These cases are brought by complaints filed with the United States magistrates rather than by indictments or informations. The United States attorneys' offices are seldom involved in prosecuting these offenses and as a result, the cases are probably not included in their actual case filing statistics. In 1982 a majority of the 5,000 misdemeanor traffic cases filed were prosecuted by agency officials or law enforcement officials.

This difference in the actual case filing statistics also explains the difference in the projected workload for 1983. Our base figures used for making the estimate of court filings are higher and therefore result in a higher estimate for 1983.

AUTOMATION

QUESTION:

This Committee has solidly supported the development and installation of the COURTRAN and LEXIS systems, and the other automation improvements in the Courts. It would appear that these improvements would be most helpful to the courts located in areas without access to law school libraries and other sources of judicial information, such as Flint, Michigan.

What is the overall plan for installing these systems in the various courts, particularly in relation to the needs of the one- and two-judge offices?

ANSWER:

COURTRAN provides automated support to over 70 district courts. Nineteen divisional offices, such as Flint, Michigan, have terminals which allow them to access the court's civil and case management data bases. At the present, the needs of most of the divisional offices are best served by continuing to provide them with access to data bases through their district's main office.

In addition, the Congress has allowed funds for a maximum of 50 automated legal research terminals nationwide. Because of the limited number of terminals that can be assigned to the courts, they are placed only in locations where there is a court library and/or where there is a large concentration of judges. Placement of terminals also depends on the ability to render assistance to the users in outlying areas by telephone. Thus far, 43 terminals have been assigned, including court facilities in Grand Rapids and Detroit, Michigan. Flint, Michigan does not have a court library and has not been assigned a terminal. Our philosophy definitely favors the provision of automated research facilities to the smaller courts, but currently we are unable to provide such facilities in these locations due to the limited resources available.

Rapidly advancing computer technology has made very powerful, relatively inexpensive, small computers available that can operate satisfactorily in individual courts. The Administrative Office and the Center are developing a five-year automation plan for the Judiciary, which will be based upon placing computers in the courts to provide automated support for case, financial, and jury management. The decentralization of automated support should result in improved services and additional capabilities in the courts. It will also allow the Administrative Office to reduce the central data entry of statistical and financial data from the courts and to phase out the three centralized computer systems.

LAPSING FUNDS

QUESTION:

The schedules in the Appendix to the President's budget indicate that an unobligated balance of $230,000 is expected to lapse in the appropriation "Speedy Trial Planning." Similarly, $925,000 is expected to lapse in the appropriation "Pretrial Services Agencies, the Judiciary." That is a total of $1,155,000.

Could we not transfer these balances to offset some of the Judiciary's $34,233,000 supplemental appropriation requirements?

ANSWER:

Since the "Speedy Trial Planning" program goal has been accomplished, which consisted of carrying out the initial phases of planning and implementation of speedy trial plans under Title I of the Speedy Trial Act of 1974, the unobligated balance available in this "no-year" account was returned to the Treasury at the end of fiscal year 1982.

The "Pretrial Services Agencies" "no-year" appropriation provided funds to establish pretrial services agencies, on a demonstration basis, in each of the ten representative judicial districts, pursuant to Title II of the Speedy Trial Act of 1974. Since this activity was funded out of regular Judiciary appropriations beginning in fiscal year 1981, the unobligated balance available was likewise returned to the Treasury at the end of 1982.

In both cases, the 1984 Budget Appendix schedules incorrectly show the unobligated balance lapsing in 1983 instead of 1982. These funds can be restored with Congressional action.

PRETRIAL SERVICE AGENCIES

On September 27, 1982, the President signed a bill that authorized the extension of the 10 existing pilot pretrial service agencies, and the establishment of such agencies in all judicial districts.

QUESTION:

In which districts are the 10 pilot pretrial service agencies located?

ANSWER:

They are located in New York Eastern, New York Southern, Pennsylvania Eastern, Maryland, Michigan Eastern, Illinois Northern, Georgia Northern, Missouri Western, Texas Northern, and California Central.

QUESTION:

Are they now fully operational and are sufficient funds available for their operation in fiscal year 1983?

ANSWER:

Yes.

QUESTION:

Does the Judicial Conference support expansion of the pilot program to all the districts, and if so, why?

ANSWER:

Yes. In March 1980, the Judicial Conference received the report of its Probation Committee and recommended the continued funding and expansion of the pretrial services operation. In March 1981, the Judicial Conference reaffirmed this position.

QUESTION:

What is the timetable for expanding the program to all the districts, and how much will occur in fiscal year 1984?

ANSWER:

The Pretrial Services Act of 1982, Public Law 97-267, provides for the expansion of pretrial services throughout the district courts, effective on and after the date of enactment, September 27, 1982. To facilitate this effort, training for the 84 non-demonstration districts in pretrial services procedures is scheduled to be completed by the end of fiscal year 1983. A number of districts are providing pretrial services to the extent possible with existing staff. Others may not begin until staff can be provided. If the Congress approves the full amount requested, all districts can be operational by the end of fiscal year 1984. If funding is cut, full implementation will not be possible.

JUDICIAL BICENTENNIAL ACTIVITIES

The Budget Appendix shows that more than $800,000 is available for the Bicentennial activities.

QUESTION:

How much was actually spent by the Judiciary in observing the Bicentennial of the American Revolution?

ANSWER:

It is estimated that a total of $1,169,000 has been spent on bicentennial activities. One of the bicentennial projects, namely the Biographical Directory of Federal Judges, is an ongoing project requiring updated editions in the future. A second edition, for example, is scheduled for publication this summer at an estimated cost of $75,000. Similarly, the Circuit Histories Project is ongoing. Five circuits continue to work on their histories; the estimated cost of which is $63,750.

QUESTION:

What is planned by the Judiciary as an observance of the Bicentennial of the United States Constitution?

ANSWER:

The Judiciary's plans for observance of the Bicentennial of the United States Constitution are in the initial discussion stage. Numerous projects have been suggested. S. 2671, which would establish a Commission, is under consideration in the Senate. To avoid unnecessary duplication, the Judiciary's plans will be worked out in light of that legislation when enacted.

CITATION VERIFICATION SERVICES

The Lawyers Co-operative Publishing Company has brought to the Subcommittee's attention that the Administrative Office of the United States Courts is contracting with West Publishing Company for a citation verification service. According to the information furnished us, the Administrative Office apparently intends to add this service summarily to the Westlaw Basic Computer Assisted Legal Research System, without allowing other vendors an opportunity to compete for the contract.

QUESTION:

What is the present status of the procurement of the citation verification service?

ANSWER:

As is more fully explained below, the Administrative Office does not have a pending procurement for a "citation verification service."

In August 1982, the Administrative Office issued a Request for Proposals ("RFP") for a full-text, interactive computer-assisted legal research ("CALR") system, specifying that, among other things, the CALR system must contain 12 mandatory features, one of which is a "Citator capability" (RFP at F.3.3.2.2(1)). The intent to issue an RFP was appropriately synopsized in the Commerce Business Daily and RFP's were mailed to 73 vendors. The Administrative Office received only three proposals: an unresponsive proposal from Systems Architects, Inc., which was rejected; and two responsive proposals, one from West Publishing Company ("West") offering WESTLAW and the other from the incumbent contractor Mead Data Central ("Mead") offering LEXIS, which were evaluated by a five-member Technical Evaluation Panel. In response to the mandatory requirement that the CALR system have a "Citator capability," West offered two citators (an internal citator and Shepard's Citations) and Mead offered three citators (an internal citator, Shepard's Citations, and a citator developed by the Lawyers Co-operative Publishing Company ("LCP") called Auto-Cite. Even though Mead received bonus points for its extra citator, West outscored Mead in the overall evaluation, which included an evaluation of all 12 mandatory features; the mandatory support requirements; the offeror's experience, business reputation, capacity and responsibility; the evaluated optional features; and the costs. Thus, under applicable Federal Procurement Regulations governing fully competitive procurements, the Administrative Office was required to award the contract to West and did so on October 1, 1982. The contract with West is for fiscal year 1983 and has a renewal provision that permits the Administrative Office to renew the contract on an annual basis for the next four years if it is in the best interest of the Government to do so. (This type of renewal provision is customary in contracts for automated data processing equipment and services and the RFP clearly disclosed that the system life is five years.) Cutover from the Mead system to the West system occurred on November 15, 1982.

Mead, represented by the Washington law firm of Covington & Burling, filed a timely protest against the award to West with the General Accounting Office on October 22, 1982, and after debriefings by the Administrative Office, Mead withdrew its protest on December 10, 1982.

On December 8, 1982, LCP submitted an unsolicited proposal requesting that the Administrative Office make a noncompetitive award to it for Auto-Cite. Notwithstanding that the Administrative Office had fully evaluated Auto-Cite and its relative merit as a single feature in reviewing the proposal submitted by Mead, the Administrative Office fully evaluated LCP's request. On December 29, 1982, the Administrative Office notified LCP that it was unable to make a noncompetitive award to it for Auto-Cite.

On or about the first week in April 1983, West enhanced its system by adding another citator, increasing the number of citators available on WESTLAW from two to three. The new citator automatically appears on the menu (the listing of databases) and a user may elect to access the new citator or any of the other available databases. There is no extra or separate charge for accessing the new citator. The Administrative Office is billed at a set rate for CALR services regardless of what databases are accessed.

The Administrative Office does not have a legitimate need for a CALR system that is not full-text and only performs a single function, such as LCP's Auto-Cite. Accordingly, there does not exist a procurement for a "citation verification service."

QUESTION:

Why did the Administrative Office switch from the Mead Data Corporation's LEXIS system, which included "Auto-Cite" developed by Lawyers Co-operative, to the West System which does not include a citation verification ability?

ANSWER:

As explained in the question above, the Administrative Office conducted a fully competitive procurement for a CALR system in 1982. Mead, which had been the incumbent for more than seven years, received bonus points for having Auto-Cite, but did not rank first in the overall evaluation. In the competitive procurement process, the vendor who ranks number one is entitled to the contract and an award was made on that basis.

QUESTION:

Why did the Administrative Office not ask for competitive bids in contracting for the citation verification service as an addition to the West service?

ANSWER:

The new citator is an enhancement of the full-text, interactive CALR system that is already in place as a result of a fully competitive procurement process. The Administrative Office procured a full-text, interactive CALR system that met all mandatory requirements including the requirement that the system have a "Citator capability." The Administrative Office would be required to conduct a competitive procurement if the enhancement was outside of the scope of the contract. In procurement jargon, the enhancement represents a modification within the scope of the contract. At the time of award West fully met the requirement for having a "Citator capability" by offering two citators. During the term of the contract West has enhanced the CALR system's capability by adding a third citator. Mead, which is the only other vendor who offers a full-text, interactive CALR system that meets the mandatory technical and support requirements, was fully evaluated against West when West did not have this enhancement and West outscored Mead. Thus, if West had not enhanced its database by adding the new citator, the Administrative Office, which does not have an independent need for a new citator, would not go out and procure this service.

In essence, what LCP would have the Administrative Office do is fragment its legitimate need for a total CALR package in such a way as to guarantee LCP a contract for its single function service called Auto-Cite.

PREPARED STATEMENTS OF JUDGE MARKEY AND JUDGE RE

Senator **Specter**. We now turn to our next panel, the International Trade Commission.

Before proceeding with the International Trade Commission, we will insert into the record the statement of Judge Howard Markey on behalf of the budget request of the U.S. Court of Appeals for the Federal Circuit and the statement of Judge Edward D. Re on behalf of the judge's request of the U.S. Court of International Trade.

[The statements follow:]

PREPARED STATEMENT OF HOWARD T. MARKEY

CHIEF JUDGE

U.S. COURT OF APPEALS FOR THE FEDERAL CIRCUIT

Having the honor of speaking for the judges of the Court of Appeals for the Federal Circuit, I am pleased to report a continuation of the policies of the predecessor courts respecting close budgeting control and limitation of requests to those absolutely necessary for mission accomplishment.

It is somewhat early for a report on our stewardship, the Court having become operational on 1 October 1982. Nonetheless, the figures available as of 25 February 1983 indicate a healthy start. Employing the lead time wisely provided by the Congress, the Judges met through the Summer and adopted a set of Rules, a Procedural Handbook and a set of Standard Operating Procedures. Enabled thus to begin actual operation on the day of its birth, the Court heard at its October Session every case ready to be heard on that date. Since then, the Court has heard every case within 30 days of its coming ready to be heard, and, in these first 101 working days, the Court has disposed of 188 cases, 141 by opinion. The workload is growing and it is not possible to predict the future, but in this period of our "shake down cruise" the Court would appear to have got well underway. The data is as yet insufficient to indicate an average interval from filing to decision, and the transfer of cases pending in its predecessor courts would distort the data in any event. The interval will, however, constitute a major measure of performance in future reports.

Concerning our requests, Mr. Chairman, the total of $5,994,000 includes $5,961,000 essentially beyond our control. Of the items within our control, we are requesting an increase of $33,000 ($6,000 in telecommunications services and $27,000 in supplies and other services), based on estimated increases in costs at a 5 to 8% inflation rate. Happily, the newspapers report an even lower inflation rate, which, if it holds, will result in a return to the treasury of some part of our $33,000 request.

Management control considerations warrant transfer of responsibility for the secretaries and law clerks assigned to our two active Senior Judges from the budget of the Courts of Appeals, District Courts, and other Judicial Services to that of this court. This housekeeping transfer between budgets requires no increase in overall funding.

The major (88%) segment of the $1,539,000 shown as an increase in our total request lies in the $1,348,000 increase in the Standard Level User Charge (SLUC) imposed by GSA. This represents a 120% increase over that charge as currently imposed, and would make SLUC over 40% of our total budget. When faced with a 113% increase in the SLUC charge last year, I stated to the House Subcommittee that I could not present justification for it. The Congress reduced that increase to 7%. I repeat, Mr. Chairman, a disavowal of any effort to justify the 120% increase imposed this year. Respecting SLUC, this court, like all agencies subject to the charge, serves merely as a messenger boy between GSA and the Congress.

We are not, of course, privy to obligations of the SLUC fund by GSA. We note, however, that the courts in our building have paid SLUC charges totalling more than $6,000,000 to GSA, and still, to this day, have been denied repeated requests for repair or replacement of the now long deteriorated drapes and carpeting installed in 1967.

As stated to the House Subcommittee last year, "So long as the indirect appropriation of public moneys, for building construction, maintenance, and repair, is continued, and government agencies are required to pay rent to another government agency, the justification of such charges must lie elsewhere."

In recent weeks we have been notified of GSA's unilateral decision to provide only on a reimbursable basis the security that has been in the past funded from SLUC payments. We are thus forced to request an additional $45,000 for payment to GSA as reimbursement for the absolute minimum of one guard at one door of our building.

PREPARED STATEMENT OF EDWARD D. RE

CHIEF JUDGE

U.S. COURT OF INTERNATIONAL TRADE

April 20, 1983

Mr. Chairman, Members of the Committee:

It is a pleasure to appear before you again on behalf of the United States Court of International Trade.

The appropriation request for fiscal year 1984 is $5,900,000, an increase of $348,000, or approximately 6%, over the adjusted $5,552,000 amount appropriated for fiscal year 1983. Were it not for the more than 20% increase in rent, our requested increase for 1984 would be less than 1% more than the amount appropriated for 1983.

Approximately 95% of that total increase ($329,000) is for charges imposed by General Services Administration for the rental of space, tenant alterations, and related services, pursuant to the Public Buildings Act of 1972. The amount requested for the rental of space for fiscal year 1984 is, as I mentioned, more than 20% higher than the amount appropriated for 1983. Of course, these charges are determined and imposed by the General Services Administration, and we have no part in arriving at the amounts charged.

The balance of the requested increase is attributable to non-discretionary costs:

1. The sum of $20,000 is necessary to provide for within-grade increases.
2. The new Hospital Insurance Tax requires $9,000.
3. The annualization of the pay raise granted

in fiscal year 1983 requires $10,000.

4. The balance of the requested increase, $28,000, is to provide for anticipated inflationary increases in the cost for services and equipment. For this purpose, we have used the inflation factor, of between 4% to 15%, suggested by the Administrative Office of the United States Courts.

We have, as previously indicated to this Committee, abolished two vacant grade 5 permanent positions.

I previously submitted the court's "General Statement" and "Justification of Changes" which provide a detailed description of the requested line item adjustments. If the Committee requires more information, we will be pleased to submit it, and I will, of course, answer any questions you may have.

U.S. INTERNATIONAL TRADE COMMISSION

STATEMENT OF ALFRED E. ECKES, CHAIRMAN, U.S. INTERNATIONAL TRADE COMMISSION

ACCOMPANIED BY:

PAULA STERN, COMMISSIONER
LORIN GOODRICH, DIRECTOR OF ADMINISTRATION
RICHARD D. ARNOLD, DIRECTOR, OFFICE OF FINANCE AND BUDGET
MICHAEL STEIN, GENERAL COUNSEL,
CHARLES ERVIN, DIRECTOR OF OPERATIONS

INTRODUCTION OF ASSOCIATES

Senator SPECTER. Good morning. Nice to see you.

Whom do you have with you?

Mr. ECKES. On my right is Commissioner Paula Stern, my senior colleague.

This is Mr. Richard Arnold and Mr. Goodrich.

Senator SPECTER. It is a pleasure to see you.

Mr. ECKES. We have senior staff here, as well.

Senator SPECTER. We welcome you here and look forward to your testimony.

Mr. ECKES. Thank you, Senator.

Let me just offer a brief summary of the testimony.

You have received the printed statement.

PREPARED STATEMENT

Senator SPECTER. Yes. The full statement will be included in the record as your testimony. Your brief summary will be welcomed to give us as much time as possible for questions.

[The statement follows:]

PREPARED STATEMENT OF ALFRED E. ECKES
CHAIRMAN
U.S. INTERNATIONAL TRADE COMMISSION

Mr. Chairman and members of the Subcommittee, I am pleased to have this opportunity to discuss the Commission's fiscal year 1984 budget request. I am accompanied today by Lorin Goodrich, our Director of Administration and Richard Arnold, our Director of Finance and Budget. Other staff members are also present.

As you know, the International Trade Commission is a uniquely independent agency with quasi-legislative and quasi-judicial functions. One of our primary responsibilities is to assist Congress and the Executive on trade-related issues. To continue our programs at existing levels, the Commission is requesting $21,241,000 for fiscal year 1984. Note that I have amended the request submitted in our Budget Justification to add $138,000 for annualization of the executive pay cap increase approved in December. This total represents an increase of $1,360,000 over fiscal year 1983 funding of $19,881,000 (which includes our FY 1983 appropriation of $19,150,000 plus requested pay supplementals). In brief, our proposal contemplates no change in programs; and staffing would remain at the level of 438 employees, the same level of full-time positions approved by our appropriations committees since 1980. The increase in appropriations requested stems from our need to fully fund that approved staff level and from nondiscretionary increases in program costs.

Let me explain what underlies our budget request.

First, our work load is largely beyond our control and is expected to grow over the next several years. As a service agency, we cannot set our own agenda. Rather we must be ready at a moment's notice to provide assistance to Congress and the President on trade matters. Also, under various statutes the Commission must handle a variety of requests for import relief within very strict deadlines.

The experience of the past year vividly illustrates our problem. During fiscal year 1982, the Commission completed 234 investigations, up from 98 in the previous year, and worked on 106 more for a total caseload of 340. At the same time, because of the growing number of trade problems, there were many requests for assistance from Congress, the President, and other agencies. As our funding for FY 1982 remained uncertain throughout the year, we could not staff at the approved level, and our resources were severely overtaxed.

In 1984, we anticipate that our workload will continue to be heavy. There are several reasons for this. First, there is growing evidence that there is a link between high budget deficits, high interest rates to finance those deficits, and a high exchange rate for the dollar caused by investors moving into dollars to seek high interest. A strong dollar means that U.S. goods become less competitive in world markets and burgeoning trade deficits result. During calendar year 1983, the U.S. trade deficit is expected to increase substantially above the 1982 level of over $40 billion, although declining oil prices are moderating earlier gloomy forecasts of double the 1982 figure. Nevertheless, declining oil prices could give a competitive boost to the manufactured exports of some trading partners, and thus present previously unforeseen problems for import competing industries in the U.S.

In the face of such a trade imbalance, it is reasonable to expect that industries will continue to seek relief from foreign competition. It also is likely that we will receive many requests from Congress and the Executive for studies and investigations of trade problems.

An improvement in the U.S. economy in 1983 is unlikely to lighten our workload in FY 1984. Traditionally, this agency is contracyclical -- our statutory workload varies inversely with the health of the economy -- but it lags changes in the economy significantly. Thus, a quick improvement in the U.S. economy and a smaller-than-expected trade deficit would probably not reduce our statutory investigations for some time.

There is another reason for expecting a heavy caseload for the Commission. With low labor costs and modern industrial facilities, many newly emerging industrial nations are increasing exports to our market. At one time this import competition touched only labor-intensive products, like footwear and textiles. Now the competition has extended to industries like steel, transportation equipment, and machinery; and there is growing evidence that chemicals, pharmaceuticals, and high-technology electronics are experiencing increased pressure from foreign producers.

The expanding scope of import competition will mean new challenges for the Commission. Much of the caseload in FY 1982 and thus far this year has involved steel products. We have accumulated a large data base for many of these products and thus work on the cases could be "packaged" in a way that will not be possible in the future. The cases we anticipate in FY 1984, involving new and technologically sophisticated products, will require more staff research and analysis, and the acquisition of additional technical expertise. Already we are having to cope with products like CT scanners and limited-charge cell culture microcarriers.

Petitions concerning scanners and microcarriers were filed under Section 337, a highly specialized area involving patents, copyrights and trademarks. The workload in this area is growing steadily. We anticipate more trademark cases in FY 1984, along with a continued heavy flow of patent-related cases.

As you know, one of our most important functions is to assist Congress and policy-making agencies with technical information. During the past year, this involved extensive support for other government agencies preparing for the GATT (General Agreement on Tariffs and Trade) ministerial in November 1982. Currently we are providing assistance to help develop a GATT work program in services, and we are heavily involved in preparations for international trade negotiations on the Harmonized Commodity Code expected in January 1984.

During fiscal year 1982, the Commission continued to devote large staff resources to the Harmonized System conversion. This work, involving public hearings and discussions with industry, in addition to meetings with the international trade community, is still continuing. The draft conversion is due to the President in June of this year. Over the next several years, as the conversion process goes forward, the Commission will need to provide both Congress and the Executive with much additional assistance on this complex matter.

Another area where I expect increased activity is in Section 332. Under this authority, the Commission conducts investigations and research studies for Congress and the President. We also self-initiate studies on timely subjects such as export subsidies, performance requirements, and the impact of fluctuating exchange rates on U.S. trade competitiveness. In the future, we anticipate many requests, specifically in the area of high technology.

Our trade-monitoring efforts have become increasingly valuable to Congress and the Executive. As the Committee knows, the Commission's technical analysts regularly monitor shifting patterns of exports and imports in specific commodities, and developments in East-West trade. We provide regular reports on trade in motor vehicles, chemicals, and other commodities. We have enhanced data-retrieval and reporting capabilities to make this important technical information available to Congress, other government agencies, and industry trade associations.

At this point I should note that the technical expertise of our industry analysts and trade specialists is one of the U.S. government's prime resources. Private sector analysts (Business Week, January 17, 1983) have said that the ITC is "the only office in Washington extensively looking at domestic and international trends and trying to assess the future of American industries." As this nation confronts changing trade conditions, the unique capabilities of our specialists will be increasingly important to the government.

Because it is critical to the nation that we maintain and improve this expertise, we plan to expand and improve our training and professional development programs in the future. Among my priorities are: 1) involving our analysts and researchers increasingly in high technology and service studies where the Commission already has done some work; 2) expanding the use of on-line computer terminals; 3) improving the availability of data in our Library; and 4) encouraging our managers to expand their own fields of specialization and to use the new technologies now available.

The Commission has a reputation for fiscal responsibility, a reputation we value and will strive to maintain. This year and in FY 1984, we will implement certain administrative improvements to help us balance the expanding program requirements I have described with the need for fiscal restraint. These include installing our own computer and additional word-processing equipment, converting the manual TSUSA publication system to an automated system, and adopting an in-house accounting system. The accounting system, scheduled for operation in FY 1984, will allow more intensive cost analyses than are now possible and thus, better control of resources. We continually search for ways to reduce expenditures; for example, we recently determined that we could limit Federal Register inserts and so lower printing costs.

Economies such as these and productivity increases resulting from new technology are factored into our budget request for FY 1984. This is a lean budget--our best estimate of what we need to carry out our increasing responsibilities. Much is expected of the Commission at a time when international trade looms as a major concern for the nation. We must have the resources to respond promptly and effectively to the demands placed upon us.

One final point: recent articles in the Washington Post have described our struggle to rehabilitate the Commission's main building at 701 E Street, N.W. This 140-year-old historic landmark is in a deplorable physical condition. Although Congress authorized GSA $5.0 million in 1974 to repair the building, only $1.2 million was used before the authorization expired, 56% of that amount for roof repairs that proved unsatisfactory and for "design and management" costs. We have had to spend $750,000 of our own funds since 1974 for repairs GSA would not undertake.

Every year rehabilitation is delayed, estimated costs climb higher; the most recent estimate for basic renovation was $9.9 million. Last fall, GSA representatives told us they believed it was not cost-effective to repair this building; that they planned to turn the building over to the Smithsonian Institution; and that the ITC should plan to move to other leased space in GSA's inventory--they suggested Hyattsville or Germantown. We explained that proximity to Congress and accessiblity for those who testify before us were prime considerations, mandating a downtown location.

On February 4, GSA Administrator Carmen informed us that GSA would not schedule funding for renovation of our building until fiscal years 1988 and 1989. GSA's regional office would in the meantime "continue its current program of preventive maintenance and repairs in the building." Mr. Carmen assured us that "transferring the building to the Smithsonian would occur only if GSA could relocate the ITC to a mutually acceptable location already in our space inventory." GSA later informed the Post that moving us to the nearby Bicentennial Building was its solution to our problem.

Delaying the funding of major repairs to the ITC Building until the end of this decade is unacceptable and will threaten the health and safety of our staff. Our experience with the Bicentennial Building makes that option also unacceptable to the Commission. We recognize that there could be alternative solutions, such as relocating to another building in the Government's space inventory or to a newly leased facility. However, at this point, GSA has not offered a suitable alternative, and we are asking our authorization and appropriations committees to work with us to properly house the Commission.

Thank you for giving us the opportunity to discuss the Commission's budget request with you today. The staff and I will try to answer any questions you may have.

STATEMENT BY CHAIRMAN ECKES

Mr. **Eckes**. The International Trade Commission is a uniquely independent agency with quasi-legislative and quasi-judicial functions. One of our primary responsibilities is to assist Congress and the Executive on trade-related issues.

Our budget proposal for fiscal year 1984 is $21.2 million.

Briefly, we contemplate no changes in programs, and staffing would remain at the level of 438 employees.

Beneath our budget request lie several considerations:

Our workload is largely beyond our control and is expected to grow over the next several years. As a service agency, we have repeated requests from the congressional oversight committees for assistance. We also receive requests from the executive branch.

Our level of investigations has increased dramatically over the last year.

In fiscal year 1982, we completed 234 investigations, up from 98 in the previous year, a 140-percent increase.

Some of our staff report that dealings with patents, trademarks, and copyrights also are increasing in number, with increasingly sophisticated technical goods involved in U.S. trade.

Before concluding, I would like to make several quick comments about our building problem. As you know, we reside in an historic landmark planned by the very gentleman who designed the Washington Monument and the Treasury Building.

A series of articles in the Washington Post recently has noted how this structure has fallen into disrepair. The roof leaks badly. The electrical system is outmoded; the plumbing is inadequate.

I could go on and talk about the rodents.

In 1974, Congress authorized nearly $6 million for GSA to repair the building, but GSA only used about $1.2 million. Many of those repairs proved unsatisfactory.

In my judgment, any further delay in funding major repairs for the building would threaten the health and safety of our staff. We have occupied the building since 1921, longer than most other Government agencies have been housed in one location.

The Commission likes the historical building and wishes to see it renovated. Because a solution cannot be postponed any longer, the Commission wishes to work closely with the congressional oversight committees and the General Services Administration to find a mutually acceptable solution.

That, Senator, is a brief summary of our submission.

I would be delighted, as would my colleagues, to respond to any questions that you might have.

ITC COMMISSIONERS

Senator **Specter**. When was the ITC created?

Mr. **Eckes**. It was created in 1917, in the Wilson administration. The history of the Senate Finance Committee points out that the principal reason for its creation was to assist Congress in factfinding and technical work on tariffs.

Senator **Specter**. How many Commissioners are there now?

Mr. **Eckes**. There. are three sitting Commissioners at the present time. We are authorized at the level of six. We have three vacancies.

Senator **Specter**. So those matters are now pending before the President for appointment?

Mr. **Eckes**. Yes, they are.

SELF-INITIATED STUDIES

Senator **Specter**. Senator Laxalt, the chairman of the subcommittee, has submitted a group of questions which I would like to propound to you.

On page 17 of the budget justification, the Commission states:

> It has conducted self-initiated investigations and studies and sampled independently the broad range of topics relating to conditions of competition between domestic and foreign industries or other pertinent significant developments to American national trade.

Have the efforts been those of coordination with the competitive assessment program initiated by the Department of Commerce, and are the efforts of the Commerce and the ITC duplicative in this area?

Mr. **Eckes**. Senator, I do not feel they are duplicative. Our work under section 332 is quite unique. We have the power to give out questionnaires, backed up by the power of subpena. In addition to that, we hold public hearings in a way that the Commerce Department could not do in determining competitive assessment.

Senator **Specter**. I wanted to insert Senator Laxalt's questions, and they are already detailed, but I have been advised that they would be appropriately submitted to you for answers.

Mr. **Eckes**. We would be happy to answer them.

DEVELOPMENT OF COMMISSION PROCEEDINGS

Senator **Specter**. Let us see how our time goes, and we will submit them or ask some of them as time allows.

I would be interested to get a concrete idea as to the procedures and time span on an illustrative case and one which is of very great interest to me, that is the one which was filed, I believe, in January of 1982 on the steel dumping issue. Could you please place in a time sequence the development of that proceeding before your Commission?

Mr. **Eckes**. I would be delighted. The cases were filed some 100 in number, in January 1982, both with the Department of Commerce and with us.

As you know, these proceedings follow a bifurcated process in which the Department of Commerce seeks to determine whether there is dumping and how much dumping is involved. They also seek to determine whether there are national subsidies and how much those subsidies are.

We, on the other hand, seek to determine whether the imported merchandise is materially injuring the domestic producers. So we essentially proceed on two tracks, though there is some interchange of information.

Ours is——

Senator SPECTER. If the Department of Commerce concludes that there is no dumping or subsidies, does that render your inquiry moot?

Mr. ECKES. Really, the first determination comes from the Commission. The Department of Commerce decides whether to institute cases, but the first determination comes within 45 days from the Commission.

Senator SPECTER. So you make the determination of injury?

Mr. ECKES. We make the preliminary determination.

Senator SPECTER. Before Commerce makes the determination of dumping or subsidies?

Mr. ECKES. Right. We offer a preliminary determination of injury.

Senator SPECTER. And if a private party does not like what the Department of Commerce has done, there is no recourse anywhere? Can they deal with the courts?

Mr. ECKES. They can deal with the courts. This is a quasijudicial proceeding, and it would go to the Court of International Trade.

COURT OF INTERNATIONAL TRADE

Senator SPECTER. Does the Court of International Trade also hear appeals from your Department?

Mr. ECKES. Yes, it does.

Senator SPECTER. What is the composition of the Court of International Trade?

Mr. ECKES. Six members, I believe. Let me ask my General Counsel, Mike Stein.

Mr. STEIN. For the record, my name is Michael Stein, General Counsel for the International Trade Commission. I believe there are nine positions on the Court.

Senator SPECTER. And that court sits where?

Mr. STEIN. That court sits in—has its building in New York, but has the authority to sit in other cities around the country, as well.

Senator SPECTER. Are those judges like other Federal judges?

Mr. STEIN. They are like Federal judges.

Senator SPECTER. Lifetime appointments?

Mr. STEIN. Yes, lifetime appointments.

Mr. ECKES. Former Congressman Carmen of New York was recently appointed to that.

Mr. STEIN. One difference is there is a requirement for political party affiliation.

Senator SPECTER. And there is none in the rest of the Federal system?

Mr. STEIN. And there is none in the rest of the Federal system.

Senator SPECTER. I am just joking about that question. [Laughter.]

I know there is none in the Constitution, but there may be some. [Laughter.]

I do not want that question to stand on the record without my explanation. [Laughter.]

Senator **Specter**. Proceed with the chronology of that case, please.

Mr. **Eckes**. In 45 days, we decide whether there is a reasonable basis for injury. The Commerce Department is continuing its investigation in a preliminary way on whether there are subsidies; whether there is dumping.

They issue their preliminary determination on subsidies within 85 days of when the case is instituted. So at that point, if both the Department of Commerce and the ITC rule affirmatively, liquidation is suspended and bonds are placed on the merchandise that is being imported, so——

Senator **Specter**. Liquidation is suspended? What do you mean by that?

Mr. **Eckes**. Mike, do you want to define that?

Mr. **Stein**. What that means is that the Customs Service does not tell the importer how much duty to pay at that time but, rather, requires the posting of a bond, and the actual amount of duty that will be owed will be assessed at a later time, when the amount of duty is determined.

Senator **Specter**. How is the bond determined, by what is the farthest reach of what the duty would be?

Mr. **Stein**. By the estimated margin that the Commerce Department finds. Commerce will issue a weighted average margin finding in each type of case.

Senator **Specter**. As I understand it, in the steel case last year, the files were in January and nothing happened until June. Am I correct about that?

Mr. **Stein**. That would be about the time of the Commerce preliminary affirmative determination.

Senator **Specter**. That is longer than 45 days.

Mr. **Eckes**. They became fairly complicated, did they not?

Mr. **Stein**. Yes, they did.

Senator **Specter**. Was that declaration not pretty clear from the start? Does that expand the time?

Mr. **Stein**. It expands the time for the Commerce Department, yes.

Senator **Specter**. From 45 days to what?

Mr. **Stein**. I think it is from 85 to 150.

Mr. **Eckes**. The 85 days is for preliminary subsidy.

Mr. **Stein**. Yes, subsidy determination. The problem here is if you are bringing both a dumping and a subsidy case, they run on slightly different tracks and have to stand up——

Senator **Specter**. And you define dumping as sale here at a lower price than the home market?

Mr. **Stein**. Or less than the cost of production there, yes.

Senator **Specter**. If you define it the second way, how does it differ from a subsidy?

Mr. **Stein**. Well, a subsidy is an amount that is given by the Government to the company.

Senator **Specter**. By the Government, so if they sell for less than cost of production.——

Mr. **Stein**. It may be there are subsidies.

Senator SPECTER. Or it may be the company is taking it on.

So it can go from 45 to 85 to 125 days if it is a complicated case?

Mr. ECKES. I think the point is that within 3 or 4 months of when the petition was filed, the preliminary determinations can go from us to Commerce. If they are affirmative, the petitioners receive a measure of relief such as bonds.

Senator SPECTER. It was longer than 125 days.

Mr. STEIN. It would have been about June in the case of the steel cases because they were complicated cases; about the right amount of time.

Senator SPECTER. Then there was an action taken which was changed in August. Can you tell me about the case?

Mr. ECKES. I am trying to think of the chronology. What happened in August?

That was when, I believe, the Department of Commerce issued its final subsidy margins.

What is the amount of time between the preliminary and the final on subsidies; Mike, do you know?

Mr. STEIN. I think those are about 45 days.

Senator SPECTER. Well, it was longer than that, I believe.

And then something happened in October.

Mr. ECKES. In October, we rendered a final determination on injury. That has to be within 45 days of Commerce's final or within 120 days of Commerce's preliminary.

Mr. STEIN. Yes; whichever is longer.

Mr. ECKES. Whichever is longer.

Senator SPECTER. Once there is a determination, the question of the bond applies prospectively only unless some other special condition is made or can be applicable 90 days retroactively?

Mr. STEIN. Yes; there is a so-called critical circumstance determination that the petitioner can request.

Senator SPECTER. Critical circumstance determination?

Mr. STEIN. Yes.

Senator SPECTER. You have a whole new lexicon, don't you?

Mr. ECKES. Those are Department of Commerce determinations, not ours.

Mr. STEIN. Yes.

Senator SPECTER. Well; all right. [Laughter.]

Mr. ECKES. That may explain our ignorance in part.

Senator SPECTER. I do not know there is any ignorance. I think there is just complexity, which is part of the problem.

So it can be retroactive for 90 days under some circumstances?

Mr. STEIN. Yes; if massive increases in imports appear to be occasioned by the likely decision.

Senator SPECTER. Then what happened in October? There were determinations in August that there were heavy subsidies. British Steel was subsidizing $250 a ton. In October, part of it was taken back, or was the case settled? What did happen?

Mr. STEIN. In October, the Commission made its injury findings. Shortly after that, a settlement agreement was reached between the domestic steel producers and the European Community, the result of which is a quota.

Senator SPECTER. Under the law, does Commerce have the power to make that agreement, or do the private complainants have to appeal?

Mr. STEIN. The private complainants have to appeal.

Senator SPECTER. They do?

Mr. STEIN. They do.

In fact, Commerce could not have made this determination had the private complainants not agreed to it.

Senator SPECTER. Weren't there complaints by the so-called private complainants after the deal was made?

Mr. STEIN. There was a certain amount of grumbling on the part of all parties to the appeal, as with any compromise. I do not think——

Senator SPECTER. But all the private complainants did agree on them?

Mr. STEIN. All of them did agree, and the deal would not have gone through—the private complainants could have forced the Government to impose the duties.

LEATHER WEARING APPAREL

Senator SPECTER. Before the Judiciary Committee's hearings recently, a bit of testimony was offered by someone—and I believe it was the leather business—on the South American importation case. Are you familiar with it?

Mr. STEIN. I am not familiar with the testimony.

Mr. ECKES. This, incidentally, is Charles Ervin, our Director of Operations.

Senator SPECTER. Yes; thank you.

The complaint made there was that a very long period of time had elapsed, and the witness had come forward from a Midwestern State, as I recall it.

He had detailed years of time passage. Could you comment on that case, Mr. Ervin?

Mr. ERVIN. Not beyond what you have said.

The case, if we are talking about the same case, involved the importation of certain leather wearing apparel. The Commission found in the affirmative, and the Commerce Department did find the garments to be sold with countervailable subsidies. An agreement was worked out between the Government of Uruguay regarding, as I recall, an export tax subsidy rebate program: the Uruguayan Government would discontinue imposing that incentive for exportation.

As a result, the actions were suspended, meaning that the United States would collectively be relying upon the good faith of the Uruguayan Government.

Now, as I recall, there was a subsequent event that occurred a year, a year and a half later and which, on examination, was that the Uruguayan Government did not honor the commitment it had made to the U.S. Government. The case was then, in effect, reactivated. This did not involve the Commission, however, because the Commission's findings of injury still held. The only thing that happened was that the Uruguayan Government's actions, as they had promised, had not taken place. Frankly, I do not know what the current status is.

Senator SPECTER. I would appreciate it if you would check into it. That does sound like the case. Do you recall the locality of the place filing that case?

Mr. ERVIN. I believe it was in New York City, but it did involve manufacturing operations outside of New York City.

There was, for example, involvement of leather wearing and apparel materials from California. There may well have been assembly operations outside of the city.

PROPOSED LEGISLATION

Senator SPECTER. If you would provide me with the details of its current status, I would appreciate it.

[The information follows:]

INVESTIGATION NO. 701-TA-68 (FINAL)

LEATHER WEARING APPAREL FROM URUGUAY

October 15, 1980—Petition filed by Ralph Edwards Sportswear, Cape Girardeaux, Missouri on behalf of 13 domestic producers of leather wearing apparel.

November 26, 1980—Commission unanimously determined that there was a reasonable indication that an industry in the United States was threatened with material injury by reason of the allegedly subsidized imports from Uruguay.

December 12, 1980—Department of Commerce preliminarily determined that there was a reasonable basis to believe or suspect that the Government of Uruguay granted benefits to manufacturers, producers, or exporters of leather wearing apparel which constituted a subsidy.

December 12, 1980—Commission instituted its final investigation.

February 27, 1981—Commerce entered into a suspension agreement with the Government of Uruguay whereby Uruguay agreed to eliminate the net amount of the subsidies found to exist on its exports of leather wearing apparel to the United States in return for a suspension of the countervailing duty investigation.

March 11, 1981—Commerce received a request from the Government of Uruguay to continue its investigation.

March 30, 1981—Commerce published its final affirmative countervailing duty determination that the Government of Uruguay grants subsidies to its manufacturers or exporters of leather wearing apparel in amounts ranging from 9.34 percent for exports utilizing imported finished leather to 17.26 percent for exports utilizing leather of domestic origin.

May 22, 1981—Commission unanimously determined that an industry in the United States is threatened with material injury by reason of subsidized imports from Uruguay of leather wearing apparel.

July 16, 1982—Commerce determined that the suspension agreement no longer met the statutory requirements for suspension. It, therefore, terminated the suspension agreement and issued a countervailing duty order with respect to this merchandise. The Customs Service was directed to collect cash deposits of estimated countervailing duties in the amount of 2.37 percent of the f.o.b. value of the merchandise on all shipments exported from Uruguay on or after May 12, 1982. This deposit rate shall remain in effect until Commerce publishes the final results of its administrative review of this order.

Mr. ERVIN. The concern which has been expressed to me by many, particularly in the steel industry, but other industries, has been the length of time that the proceedings take and also the remedy which has led me to propose legislation which would authorize concurrent remedies which would authorize a private party, either a company or a union or someone who has been damaged, to initiate a suit in Federal court on a dumping claim and would authorize the Federal court to grant injunctive relief and to impose damages. The injunctive relief is the line that I consider to be the most important, and the issue has arisen as to competency of the Federal courts to handle complex matters. As I presented the bill, jurisdiction would be only in the District Court for the District of Columbia, by analogy, the voting rights cases where there is a single court which develops expertise and perhaps would be more impartial and shut partial courts away from the silence of the event.

Assistant Attorney General Baxter testified recently that he would be much more favorably disposed to the bill if it were limited to subsidies instead of dumping. He drew a distinction between the dumping issue and the subsidy issue. I would be interested in your observations on such legislation if anyone of you is formed.

Mr. **Eckes**. Senator, I have not studied the specific legislation in detail. It is a congressional decision. At the present time, it seems to me that we have a procedure that is relatively open and fair. It is obviously costly on the parties—this is a criticism that is frequently advanced. It is difficult to say whether you can make it less costly without making it less open, or whether you can still have it open and fair and less costly. I am concerned about the time limits of the decisions, too. My impression is that the Commission moves relatively speedily, and in the courts, we might have decisions that would not be so speedy.

I would prefer to have my General Counsel comment on that. I think he has studied it more carefully than I have had an opportunity to.

Senator **Specter**. Are you familiar with the legislation?

Mr. **Stein**. Yes, I am.

Senator **Specter**. Fine. I would be interested in your views at this time.

Mr. **Stein**. What you are proposing with respect to dumping is a change in how dumping is viewed. That is, most dumping is considered to be inadvertent. The changes in exchange rates or the like may result in margins. These may or may not be within control of the company that is exporting to the United States. The result of your bill would be to change this act from one that is malum prohibitum to one that is malum in se. The provision of damage remedy would be—would certainly be a tremendous deterrent to dumping, but it would change—what we are talking about is a change in the character of the way the act is, the act of dumping has been viewed.

The other change that I think is important is right now we and Commerce Department both investigate. While there are winners and losers in the cases, these are not—we don't view these as adversary proceedings. We do them as an investigation.

When you go to court, the court does not have the resources that either the Commerce Department or the Commission has to gather information. One would rely solely on the parties to gather this information, much of which is extraordinarily difficult and complex and requires, in the Commission's case, the collection of information from bystanders, from customers and people who don't necessarily have a vital interest in the outcome of the case.

I am not sure that you will come up with a faster or more inexpensive remedy by putting these forward, because the parties are now going to have to do the work that the Commerce and Commission performs.

Senator SPECTER. Well, but the parties would have to have their own incentives. The consideration you raise——

Mr. STEIN. They would.

Senator SPECTER [continuing]. Really, involves, in a sense, an evaluation of our whole judicial system. We have a judicial system adversarial in nature, as you and I well know, which gets the truth by having opposing forces. Complex cases can be decided rapidly. *Marathon* and *Mobil Oil* was decided in a few weeks in a Federal court in Ohio. I have taken cases into court as a litigator and gotten complex cases decided in the course of a few days, such as a preliminary restraining order.

There are discovery procedures available. The United States Steel Corp. steel cases involved, vast investigations. From what I was told in one proceeding before the International Trade Commission United States Steel was described as bringing whole barrels of documents in. They are certainly able to put their case forward. The companies on the other side are certainly able to defend themselves.

Mr. STEIN. All of this is true, and what I was just suggesting to you is that these are policy matters that the Congress would have to decide, not the Commission.

Senator SPECTER. Do you think it is possible that, being a litigator yourself, that it could have a litigation result with the parties and the judicial system bringing out a fairly prompt decision?

Mr. STEIN. As you said, the courts do decide cases of this complexity every day, so I don't think there is any doubt that it can be done. I would just point out that we spend 84 work-years working on countervailing duty and antidumping cases. Gary Horlick's shop in Commerce has 92 people in it.

Senator SPECTER. General counsel of United States Steel has more. Counsel for——

Mr. STEIN. But the judge has the clerks.

Senator SPECTER. That is true. The factual materials and the evidentiary proceedings are really organized elsewhere. When you talk about the investigation and the presentation, that is the lawyer's function; it is not the judge's function.

Mr. STEIN. Yes.

INJUNCTIVE RELIEF

Senator SPECTER. The other aspect which is very significant, in my judgment, is the injunctive remedy. It is very different to get an injunction as opposed to paying the payments which were made before the ITC. An injunction is a very powerful weapon, and it is an odd punitive weapon in the sense of not imposing damages for past conduct. It starts today.

What is your thought about the efficacy of injunctive relief?

Mr. STEIN. I think you are correct that injunctive relief would be a tremendous weapon in the hands of the domestic industry in reducing the unfair trade practices. It would, obviously, have a much more direct effect on trade flows than the current remedies.

The theory behind dumping and countervailing duties laws right now is that their purpose is not to remedy but rather to level the playing field, that these are practices, where they are injurious, they should be remedied so that everyone is competing on an even level so the margin of dumping is offset, the amount of the subsidy offset.

There is no attempt to make the domestic industry whole or to assure markets for the domestic industry. The only assurance that the statutes give is that the domestic industry will not have to compete with someone who is being unfairly advantaged.

Senator **Specter**. The difficulty with simply leveling the playing field is that it does not put the ball in the proper position after some action has been taken; in fact, you are not even going to penalize somebody by setting it back 15 yards for unnecessary roughness. You are going to say that you can't carry the ball forward by those tactics again.

We face a very substantial sentiment in this Congress for protectionism, and the legislation that I am suggesting is not protectionist because it simply eliminates dumping and subsidies which is essential for free trade.

You are nodding yes.

Mr. **Stein**. Well, I am nodding that I agree that there is a substantial amount of sentiment to amend the statutes and that your amendment would have the effect of substantially increasing the liability of people who dump or have subsidies.

Senator **Specter**. Would you agree with my theory that it is in furtherance of free trade? Free trade has as a postulate the absence of subsidies and the absence of dumping.

Mr. **Stein**. Given the postulates, the answer is "Yes."

Senator **Specter**. Isn't that what free trade means, competing against the other fellow without some special help by your government on a subsidy or competing against the other fellow without dumping?

Mr. **Stein**. Yes, yes.

SUPPLEMENTAL REMEDY

Senator **Specter**. The other concern that I have about the procedures of the ITC, and I think they are fine to have them. I wouldn't suggest at all, nor do I propose to do anything to the ITC.

What I am suggesting is having a supplemental remedy. A supplemental remedy may not work or it may be splendid. But when you pay the duties to the U.S. Treasury, that does not do anything for the party who sustained the damages. Why shouldn't there be damages which flow to the injured party as opposed to going to the U.S Treasury? Why not particularize who has been hurt and pay them the money?

Mr. **Stein**. Only for the reason that I stated earlier, and that is, that historically, that has not been considered a function of the act. There is no reason, theoretically, why the purpose of the statute could not be changed.

Senator **Specter**. It is the company or the unions or the workers who have been damaged, not the U.S. Government.

Mr. **Stein**. This is true.

POLITICAL CONSIDERATIONS

Senator **Specter**. The concern that I have is that decisions are made on international political grounds. The Department of Commerce is not immune from influence by the Department of State, and that when we consider the impact on the Benelux countries and on Britain, we are talking about the very complex political decisions involving NATO and a great many other matters, such as Japan taking over defense of the Southwest Pacific. There is a good bit to conclude that U.S. industrial matters are decided in the interests of foreign policy as opposed to strictly fairness on trade matters. However; those decisions are made by the administration, not your agency. I respect your independence.

Mr. **Eckes**. But we are independent and bipartisan.

Senator **Specter**. I know, but you don't function alone. You have to function with the Commerce Department. Do you think there is any validity in that concern, Mr. Stein?

Mr. **Stein**. Mr. Chairman, I would, frankly—no. I think that this statute has been administered by the Commerce Department without regard to politics. There are two reasons for that: The first is that the people who are administering it, I think, are as fine an example of public servants as it has been my pleasure to deal with; and second, there is court review that makes it very difficult to skew a decision politically simply because there are remedies that——

Senator **Specter**. How about the International Trade Representative? He figures in this largely, too.

Mr. **Stein**. The United States Trade Representative has some consultation with the Commerce Department on the question of whether Commerce's interpretations of our statute are in accordance with our international obligations. But——

Senator **Specter**. He made a decision in a case involving an arrangement on Japanese sale of steel to the Common Market recently, didn't he?

Mr. **Stein**. Yes, he did, or rather, United States Steel withdrew that complaint, as I recall.

Senator **Specter**. No, it was dismissed. They did not withdraw it. It was dismissed on the basis of his finding. Now it comes back to me that there was no injury. Mr. Brock found an absence of injury. How does that tie into your determination?

Mr. **Stein**. It doesn't. That is a different statute, Mr. Chairman. That is section 301 of the Trade Act of 1974 which gives the President the authority to take actions against practices.

Senator **Specter**. It is an alternative remedy?

Mr. **Stein**. That is correct.

It is an alternative remedy. The dumping and countervailing duty laws don't work with respect to exports if they are foreign country markets. They only work with respect to markets in the United States. If United States Steel is having problems competing against the Japanese in Europe, they would not have these laws available to them. They would have to proceed under section 301. That is solely an Executive, Presidential decision, and the President has a great deal of discretion.

Senator **Specter**. The President has a great deal of discretion?

Mr. STEIN. Yes, unlimited.

Senator SPECTER. I agree.

Mr. STEIN. It is very dissimilar from the law—from the dumping and countervailing duties laws, which are, as it has been pointed out, quite elaborate.

Senator SPECTER. They may be dissimilar, but they tie in. You have the same players and you have the same game, and you approach it from two different directions on remedies. But the way people respond depends to a significant extent on what they can do in the other forum.

Mr. Stein, I was not suggesting there is anything invidious about political considerations on trade and that these public servants were not doing their job. I am suggesting to you that there are different standards involved, that the Department of Commerce should properly consider U.S. foreign policy and that even if it is not on the checklist for considerations, it is in the back of people's minds when they make these judgments.

Mr. STEIN. I reacted so strongly because in the Trade Agreements Act of 1979, the Congress did everything they possibly could to make these remedies nondiscretionary, to take political considerations out of the operation of this statute. The major criticism of the Treasury Department, who administered the statute before 1979, was that it was doing precisely what you have said, that is, allowing foreign policy considerations to influence its margin findings.

The Congress was explicit in attempting to make sure that these sorts of considerations did not influence the administering authority's determinations.

Senator SPECTER. I don't think it is possible to do that, Mr. Stein.

Mr. STEIN. To the extent that human beings can do that and, of course, the people at the Commerce do read the newspapers, I think that they have made good faith efforts to decide the case on the basis of the law as it is written.

Senator SPECTER. They do more than read the newspapers: the Secretary of Commerce talks to the Secretary of State about these questions. They have a Cabinet Council. They meet at in an open, lawful conspiracy. [Laughter.]

They are charged to do that. That is their job.

EFFECT ON DUMPING AND SUBSIDY PRACTICES

Mr. STEIN. I will desist.

Senator SPECTER. You will what?

Mr. STEIN. I will desist.

Senator SPECTER. Desist? All right. On your distinction between malum prohibitum and malum in se, an interesting juxtaposition, I would be delighted to draft my statute malum prohibitum. How would I do that? I would be delighted to draft my statute any way to advance this cause.

How would I do that, if I may seek your counsel?

Mr. STEIN. I am at a loss at this instant to respond to that.

Senator SPECTER. Why do you say it is malum in se as opposed to malum prohibitum? That distinction I find a little bit difficult to draw on from time to time.

Mr. STEIN. It is difficult, and the thought that I was trying to get across was that dumping and subsidy practices were—that the purpose of the statute is not to remedy the injury found and the purpose of your statute is to remedy the injury found, and in that sense, you are changing the purpose fairly dramatically. I don't think you would want to give people the damage remedy unless you thought that what was done to them had been done either intentionally or negligently or with the intent of causing injury.

In other words, what you are doing is changing this into a tort, in some sense.

Senator SPECTER. Well, that is true, but I think you can have a tort which is mala prohibitive as well as mala in consent.

Mr. STEIN. It is hard to do this negligently; you do it intentionally or unintentionally.

Senator SPECTER. I would not seek inadvertence, but the consequence of that is to put in the provision of intent, and that makes it too difficult.

Mr. STEIN. It certainly does.

Senator SPECTER. Then you get into the crime area as opposed to a civil remedy, and that just doesn't work. There is, in effect, a discretionary application on damage by a fact finder in any event. If it is really inadvertent, if it is the money market or some fluctuation in currency, we are not looking for that. But you can't draw the line that finely.

Mr. STEIN. The bill at present doesn't really secure damages, does it? It doesn't suggest the damage?

Senator SPECTER. Mr. Eckes, I want to compliment you for bringing your General Counsel along and avoiding all those questions. [Laughter.]

Mr. ECKES. As a nonlawyer, I may not give you good advice.

UNITED STATES STEEL

Senator SPECTER. I want to ask you if you agree with Mr. Stein's distinction. I would like to ask you about a situation on United States Steel and its Morrisville plant. I am sure you are familiar with that situation. It has caused a great deal of concern in that particular locale as to specific jobs loss, and it causes concern on a broader issue as to what that kind a precedent may have in other places.

The focus of concern that I have is whether British Steel is being subsidized, and there have been extensive writings in the British press about, I think it is the Ravenscraig foundry which is going to supply this steel which is being subsidized enormously.

British Steel has billion dollar losses a year and are fighting with the Benelux countries.

Assuming that the British Steel is subsidized—you don't have to assume it, you can conclude it; the ITC found it last year—does that comply with our trade laws?

Mr. ECKES. I would be hesitant to answer that directly, Senator, for fear that a case might very well be filed under the statute at some point in the future dealing with that, and we might have to rule on whether there is an injury to the U.S. industry. I think if I could ask my senior staff and not encumber that, I might be able to comment.

Mr. **Ervin**. As the chairman says——

Senator **Specter**. Of course, could you identify yourselves for the record, please?

Mr. **Ervin**. I am Charles Ervin, the Director of Operations.

Senator **Specter**. Doesn't he always say that in congressional hearings?

Mr. **Eckes**. He is seldom asked.

Senator **Specter**. But when he is?

Mr. **Ervin**. It is unusual even in this continuing struggle over European steel that the United States Steel Corp. would decide, after withdrawing the cases, to begin to purchase a major portion of the total cost of production of steel from Great Britain.

At this point, we do not have any action claimed by United States Steel or any other U.S. steel maker, claiming that this constitutes an unfair trade act.

Senator **Specter**. Why would United States Steel make that? They are claiming it.

Mr. **Ervin**. Nor do the U.S. steelworkers who have been publishing, claiming that this constitutes a breach of faith. We have not had even an informal discussion on this claim.

At this moment, we have not planned to propose to the Commission and the senior staff any type of separate examination of the facts. Rather, these parties represent adequately counselled and informed parties before the law. Obviously, if they choose to attempt to make such a claim, the Commission will have to examine it.

SECTION 332 STUDIES

Senator **Specter**. Are they the only ones that could initiate that inquiry?

Could I initiate that inquiry?

Mr. **Ervin**. You have the opportunity of requesting of the House Ways and Means or the Senate Finance Committee or the USTR to request the Commission to conduct a case. It is under section 332.

Senator **Specter**. It would take action of the Senate Finance Committee to initiate an inquiry.

Mr. **Ervin**. Yes, that is called a section 332 inquiry. It does not have a practical impact. It would be an economic impact statement in which we try to respond to your question, which is, what does this mean to the U.S. steel industry?

Senator **Specter**. Does the General Accounting office have jurisdiction to make that inquiry?

Mr. **Ervin**. It does not. USTR is the other source.

Senator **Specter**. Does the trade representative require an inquiry from the Finance Committee, as well?

Mr. **Ervin**. No. It may operate independently. The Commission must do a section 332 investigation requested either by the President, signed directly by the USTR, or by the Senate Finance Committee or the House Ways and Means Committee.

Senator **Specter**. Senator Heinz and I had written to the Secretary of Commerce on this subject asking for his findings on the subject. But it would seem to me that if the steel is subsidized, that if the British steel is subsidized, it would be an open and shut case in violation of our trade laws, wouldn't it?

BRITISH STEEL SUBSIDIES

Mr. **Ervin**. The question of what is open or shut regarding whether it is subsidized is obviously not our jurisdiction. It was clear that the United States Steel Corp. had in their hands a determination of over 9 months that British Steel had a massive subsidy. They chose to withdraw the action at the very hour that at their hands was going to be a sword.

Now, as to——

Senator **Specter**. They withdrew the action or compromised it?

Mr. **Ervin**. They withdrew it. We were literally standing in the hall about to deliver the last technical act which was the report to the Secretary of Commerce.

Senator **Specter**. Is this in 1982?

Mr. **Ervin**. This was in October 1982, and walking down the hall was the United States Steel representative who told me that the final agreement had been reached and that we would not deliver.

We were going to deliver the sword that afternoon, the last technical act that would allow United States Steel and the U.S. Government as well as the steel industry to enforce the action which they filed in January.

I am not sure what more can be said at this moment. Obviously, it is conceivable that the British Steel Corp. has taken a whole series of management acts which have so reduced their cost of production that they are, today, not subsidizing in the production of aluminum plate.

Senator **Specter**. Not doing what?

Mr. **Ervin**. Subsidizing the production of sheet and plate.

Senator **Specter**. What do you mean, United States Steel is not subsidizing?

Mr. **Ervin**. No; the British. It is conceivable that the British Steel Co., over the last 6 to 9 months, has taken such radical surgery to their own production costs that they are not now subsidizing the production of plate and sheet.

We don't do that work. The Department of Commerce does.

If there were a case filed, they would have to make that determination. I don't know what they have done. I do know they have made efforts to reduce their costs of production. Thus, it is possible—I am not saying it is probable—that they are neither subsidizing or selling at less than fair value. But that would now have to be determined.

Senator **Specter**. What were the specifics of the action you were about to take in October when you walked down the hall with——

Mr. **Ervin**. The Commerce Department had determined the subsidies and boundaries and grants of the outstanding cases. The Commission had publicly voted on all the cases the final time that there was injury. There was a period of approximately 1½ to 2 weeks from such a vote, during which time all of the opinions are finally written, prepared and put together in a final report.

There is a statutory deadline, 45 days following the final act of the Commerce Department, in which our document goes to the Secretary of Commerce. At that point, legally, the work is finished.

That was the day on which the United States Steel Corp. or the consortium led by the United States Steel Corp. withdrew their petition. They did so by an agreement which was followed publicly in the press that related to the United States, in effect, with the European Economic Community setting up a program to monitor steel imports on a preset set of imports by type, and that program is currently underway.

Senator **Specter**. What were the specifics of your findings?

Mr. **Ervin**. Affirmative, a unanimous affirmative finding in regard to most of the elements of steel and there was one negative on some elements of steel, but it was an affirmative finding.

Senator **Specter**. An affirmative finding that——

Mr. **Ervin**. That there was injury by reason of the unfair acts relating to countervailing duties and dumping.

Senator **Specter**. Dumping?

Mr. **Ervin**. Countervailing duties, because—I am sorry—because we had, countervailing duty, it was an affirmative finding. We had yet to make a determination of dumping, because it was on a slightly different schedule. But that is it.

Senator **Specter**. But your finding did encompass the conclusion of subsidies?

Mr. **Ervin**. That there was injury by reason of these subsidized imports, subsidies which had been found by the Department of Commerce.

Senator **Specter**. And those subsidies were arranged as to British Steel at $250 a ton?

Mr. **Ervin**. I know it was enormous. I frankly don't remember the percentage, but it was a very substantial percentage.

Senator **Specter**. What does a ton of steel cost, about?

Mr. **Ervin**. Around $600 a ton, so our view of the British subsidies were of some 34 percent.

Senator **Specter**. I recollect the figure that was in the press of some $250 a ton.

BRITISH STEEL LOSSES

Mr. **Ervin**. It was very large. If I may, just as an aside, I made a rough calculation of the publicly released losses of the British Steel Corp., a corporation owned by the British Government, during the period of Margaret Thatcher's administration, and the total accumulative losses of the British Steel Corp. exceeded market value of the U.S. steel industry, accumulative, the market value, which included not only the steel operations but coal, iron ore, all of the chemical operations and the Conoco Oil Co. That was the scale of the losses.

Senator **Specter**. I am sorry. Would you repeat that?

Mr. **Ervin**. It is a dramatic figure. I would love to. [Laughter.] The accumulative losses the British Steel Corp. publicly announced, not by product—you must consider this by product, normally—during the administration of Margaret Thatcher exceeded the U.S. market value, accumulative market value of all of the

U.S. steel industry, which is four or five times larger, which also includes the raw assets of the coal that that industry owns; the iron ore that that industry owns; the gigantic chemical industry that that industry owns and in the case of National Steel Corp., the savings and loan that it owns and the Conoco Oil Co.; the accumulative market value in the United States of our industry was less than the losses of the British Steel Corp. only during the reign of Margaret Thatcher.

Yes; it was this figure that was publicly released. I went through the same questioning at the time of the public hearing, and the counsel for British Steel Corp. was only able to respond that the figures were approximately correct.

EFFECT OF SUBSIDIES

Senator SPECTER. Let us get back to the question of the consequence of a finding that those subsidies are continuing, notwithstanding those phenomenal losses in subsidies which would have been eliminated. I use the term "open and shut" because I do not want to ask you a discretionary question but one which is really in very plain terms. I am not sure that the steelworkers make their own decisions. They may have their reason for not proceeding. United States Steel obviously has made a decision that it is in its interest.

Mr. Roger, speaking in the newspaper today, was saying that only 500 jobs would be lost and this is terminal obsolescence after 30 years in Morrisville, and if they don't do this, they will lose 6,000 jobs. That may be accurate and wise, but the question I have is a much narrower question.

If there are subsidies by British Steel, isn't that illegal under our trade laws?

Mr. STEIN. No, it is not. It is only if the subsidies materially injure the domestic industry. If the imports, the subsidized imports materially injure a domestic industry—and you just made the argument that I would expect United States Steel would make—should a case be brought either by the steelworkers or by a competitor of United States Steel that the industry is injured—we would have to examine the question of whether the industry is actually injured or whether this production would have displaced other, perhaps nonsubsidized imports.

Senator SPECTER. So if it displaced nonsubsidized imports, then the industry is not injured, but if it displaced other U.S. made American steel, the U.S. industry would be injured.

Mr. STEIN. Correct. That is what the Commission decides.

Senator SPECTER. In trying to decide whether the industry is losing, do you consider Owens and Justins' losses or do you consider United States Steel's?

Mr. STEIN. We consider the entire industry. In a case like this where United States Steel was the importer, the Commission has an option to consider United States Steel not to be a part of the industry.

Senator SPECTER. It may work out that our industry was simply the broker for subsidizing foreign steel, and that would qualify as an industry to determine noninjury?

Mr. **Stein**. If it is not producing a like product in the United States, it would not.

Senator **Specter**. Why not?

Well, those are esoteric legal questions.

Mr. **Eckes**. They are the types of questions we deal with every day, Senator.

Senator **Specter**. They are certainly difficult questions.

They do not lend themselves to any simple solutions. My sense is that your agency does a very good job administering a very difficult law, and the quality of the testimony here today is excellent.

I just have a concern that however good the administration is by Commerce, ITC, Trade Representative, that if you leave enforcement actions to private parties, you inject an element of motivation which is successful and highly desirable. If you leave it to the court system, you have the tried and tested ways of administering our laws. When the Federal courts, as we heard earlier this morning, are open for $60 interpretations of a purchase agreement on deceptive practices, the Federal courts ought to be open on the interpretation of dumping laws or subsidy laws as they affect the future of the American steel industry and the unemployment of 150,000 steelworkers.

That is why I have sought to push the legislation which I have.

Well, I very much appreciate the testimony. I think that it has helped me, at least.

Thank you, very much, for coming. I appreciate it.

Mr. **Eckes**. Thank you, Senator.

Senator **Specter**. Thank you. Glad to give you fellows speaking roles. [Laughter.]

What is your background?

Mr. **Stein**. Columbia.

Senator **Specter**. Mr. Ervin, what is your background?

Mr. **Ervin**. Harvard Business School.

Senator **Specter**. Well, you have got a good team.

Mr. **Eckes**. Thank you.

SUBMITTED QUESTIONS

Senator **Specter**. OK. We have additional questions which we will submit to you for your response. They will be inserted at this point.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

ADDITIONAL COMMITTEE QUESTIONS

1. **Question:** I understand the President is now considering whether to combine all the trade functions of the Federal Government into one Cabinet-level Department. Could the International Trade Commission function in such a Department as a quasi-independent body, much as the Federal Energy Regulatory Commission operates within the Department of Energy?

Response: The United States International Trade Commission ("Commission") is an independent agency with a combination of advisory and quasi-judicial functions. The Commission serves as an advisor to Congress and the President on a variety of international trade matters. See 19 U.S.C. §§ 1332, 2151. In its quasi-judicial role, the Commission decides a variety of unfair trade disputes arising under the antidumping and countervailing duty laws (19 U.S.C. §§ 1671, 1673) and under section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337).

The Commission was created in 1916 as an independent agency. From the very beginning, the Commission has been responsible for providing expert, nonpartisan advice to Congress and the President on matters relating to international trade, tariffs, and the formulation of trade policy. This tradition of independence has been maintained throughout the Commission's history. The Senate Finance Committee Report on the Trade Reform Act of 1974 explains:

> [The Commission] is a permanent, independent, nonpartisan agency whose principal function is to provide technical and fact-finding assistance to the Congress and the President upon the basis of which trade policies may be determined. The Committee strongly believes in the need to prevent the Commission from being transformed into a partisan body or an agency dominated by the Executive Branch. For this reason, many of the amendments offered in this bill with regard to the Commission are directed at strengthening its independence.

S. Rept. No. 93-1298, 93rd Cong., 2d Sess., p. 115 (1974).

The Commission's inclusion in the proposed Department of Trade would be inconsistent with the Commission's historical role as an independent advisor to Congress and the Executive Branch. Congress would be in the position of relying on advice emanating from within the Executive Branch, rather than advice prepared by an independent agency.

These considerations apply with equal force to the Commission's quasi-judicial functions. The Commission's decisions in antidumping, countervailing duty, and section 337 investigations are adjudications based on the evidence of record. See 19 U.S.C. §§1337(c), 1516a. After weighing the evidence presented, the Commission must decide the case in a fair and impartial manner in accordance with the relevant principles of law. The Commission's status as an independent agency is an important assurance that such decisions will be beyond the influence of partisan considerations. Placing the Commission within the proposed Department of Trade would subject the Commission to a variety of conflicting pressures and would undercut the assurances of independence and impartiality created by the Commission's present status as an independent agency.

2. **Question:** On page 21 of the budget justification, the Commission states that it provides reports to other Federal agencies on specific issues, and that the Commission is reimbursed for its costs. Please provide the Committee a list of these reports and reimbursements received for fiscal 1982 and for as much of fiscal 1983 as available.

Response: The Commission is required by section 334 of the Tariff Act of 1930 to cooperate with other Government agencies on matters of common interest. In doing this the Commission provides other agencies with reports, briefings, and analyses, and allows access to its automated data files in order to assist other agencies in matters dealing with domestic and foreign tariffs and trade. Such assistance avoids duplication of effort and allows Commission expertise to be useful in decision making processes outside the Commission itself.

The statement in the budget justification was made to emphasize that if the Commission were to undertake a special project for another agency instead of providing only available data, reimbursement would be required for any additional expenditures incurred. During fiscal year 1982 the only reimbursement received was $10,000 from the Commerce Department in sharing some of the costs incurred in preparing the annual chemicals report. No reimburseable projects have been performed or are anticipated in fiscal year 1983.

3. **Question:** Is the Commission becoming more involved in issues involving the trade of services, such as insurance and banking?

Will problems such as market access become more prevalent in this area?

Response: The Commission does not have underway any major project in the services area. However, it is represented on an interagency task force on service data needs which is contributing to the national study concept which resulted from the November GATT Ministerial meeting. We are providing technical assistance to this group based on experience gained in conducting investigation 332-132, The Relationship of Exports in Selected U.S. Service Industries to U.S. Merchandise Exports. Also, it should be noted that there is some discussion within the President's U.S. Trade Representative's office that it may request an additional 332 investigation in the service area from the Commission in the near future. Specific details of the possible request are not known at this time.

Based on information gained in connection with the recent 332 study on services, "right of establishment" currently is a major nontariff trade barrier and the one most frequently cited as being encountered by service industries interested in entering or expanding overseas markets. There is little reason to believe that issues such as restrictive employment regulations; credit, investment or deposit requirements for foreign companies; and reinsurance based on local assets will become less important problems for U.S. service firms operating internationally.

4. Question:	In your statement, you note the problems you are having at your current building at 701 E street. What is the condition of the building? Since the General Services Administration has stated that renovation of the building will not begin until 1988, and the Commission believes the Bicentennial Building is an unacceptable alternative, where do we go from here?
Response:	Although structurally sound, the ITC Building is in a deplorable physical condition requiring repair, restoration and modernization in several ways. The roof, its substructure, and roof drain system, must be repaired. Leaks have caused significant deterioration to office ceilings and walls, which also must be repaired. The substructure of the building's inner courtyard is deteriorating rapidly. It must be replaced and the courtyard resurfaced. The exterior masonry must be repaired. Many of the windows and frames need to be replaced and facilities for handicapped persons must be installed. A central heating and ventilation system must be installed and an electrical distribution system must be provided. A higher priority must be placed on repairing the ITC Building than the schedule suggested by the General Services Administration. GSA has advised the ITC that it would request funding for FY 1988 and 1989, which means that actual renovations probably would not begin for three or four years after that time. Current estimates of the cost to repair the building range from $20 to $25 million and will surely be more expensive if there are further delays. It is important for GSA to submit to the Congress a plan and cost estimate for an overall renovation plan. The Smithsonian Institution would like to acquire the Building for public museum use. However, the Commission wants to remain in the ITC Building which has been its headquarters since 1921. It is essential that the issue of who will occupy the building over the long term be resolved so that the structure can be suitably renovated.

QUESTIONS SUBMITTED BY SENATOR LAXALT

ITC

1. **Question:** On page 17 of the budget justification, the Commission states that it "has conducted self-initiated investigations and studies that examined a broad range of topics relating to conditions of competition between domestic and foreign industries or to other pertinent significant developments in international trade." Have the efforts been coordinated with the competitive assessment program initiated by the Department of Commerce? Are the efforts of Commerce and the ITC duplicative in this area?

Response: I do not feel they are duplicative. Our work under Section 332 is unique. We have the power to use questionnaires backed up by the power of subpoena. In addition to that, we hold public hearings in a way that the Commerce Department could not do in determining competitive assessment. I might also add that the Commission's Office of Executive Liaison is aware of study efforts underway as part of the Trade Policy Staff Committee (TPSC) program. Through the TPSC, the Commission is able to insure that its 332 investigations are not duplicative of other efforts being undertaken by the Executive Branch.

2. **Question:** In your statement you note that much of the increased caseload of the Commission involves steel products. What types of steel products are involved, and where is the U.S. most vulnerable to overseas competition in this area?

Response: Since the beginning of 1982 the Commission has conducted numerous investigations involving steel products under several provisions of law (antidumping, countervailing duty, and escape clause, for example). Principal products covered by the investigations included carbon steel sheet, plate, structural shapes, bar, wire rod, and pipe and tube; stainless steel sheet, plate, bar, wire rod, and pipe and tube; and alloy tool steel in various forms.

While the Commission has not identified any specific steel products as being more vulnerable to import competition than others, it is generally true that the more labor-intensive products (i.e., those that are more finished) face the stiffest competition from imports. For example, the Commission has had no investigations on semifinished steel products such as slabs, blooms, and billets, but it is aware of intense competition in the markets for such products as carbon steel plate, galvanized carbon steel sheet, stainless steel sheet (particularly finely finished sheet, which requires careful quality control and inspection during production), stainless steel pipe and tube, and alloy tool steel in various forms.

3. **Question:** The Commission's administration activity assumes 49 work years in FY 1984 rather than the 48 currently authorized. Please explain the need for this increase, and what type of work will be performed.

Response: The Commission's administration activity, in addition to the work of employees assigned full time to providing support services for the entire Commission, includes staff time for Commission-wide administrative matters performed by non-administrative employees. This includes items such as union activities, Occupational Health and Safety activities, Equal Employment Opportunity activities, participation on agency ranking and selection panels, and data processing activities related to administrative functions.

The increase of one work year in fiscal year 1984 over that planned for in fiscal year 1983 is due to an anticipated increase in Commission-wide administrative matters by non-administrative employees for the items cited above, not by an increase in administrative staff.

4. **Question:** Please provide the Committee with: (a) total travel costs for the Commission and its staff for FY 1982, anticipated FY 1983, and anticipated FY 1984; (b) a listing of Commission meetings conducted during 1982 and 1983 outside of Washington, D.C., the subjects of the meetings, and associated costs.

Response: Commission employees travel primarily in the conduct of public investigations. Other travel is required for specific ongoing programs and for the maintenance of staff expertise. The Commission cannot fulfill its responsibilities without information collected in the field to supplement that which is available from published sources.

(a) During fiscal year 1982 the Commission incurred travel and transportation costs of $263,000. For fiscal year 1983 travel and transportation costs are projected at $349,000 and for fiscal year 1984 they are projected at $367,000.

(b) Hearings held outside of Washington, D.C. during fiscal year 1982 were as follows:

Subject	Location	Associated Costs
Clothespins (under section 203 of the Trade Act of 1974)	Portland, Maine	$4,205
Salmon Gill Fish netting (under section 751 of the Tariff Act) and Softwood Lumber (under section 332 of the Tariff Act)	Portland, Maine	$8,832

White and Irish Potatoes (under section 332 of the Tariff Act)	Boise, Idaho and Portland, Maine	$10,433

No hearings have been held outside of Washington, D.C. during fiscal year 1983.

5. Question: What inflation assumptions are reflected in the budget request? Are these assumptions consistent with current projections? If not, please provide an aggregate budget request figure for the ITC based on revised inflation estimates.

Response: Specific inflation assumptions are not used in determining our budget requests. Approximately seventy five percent of our projected expenditures are for personnel costs, which are not subject to the direct effects of inflation. Other items of expenditure are individually reviewed and a determination made as to what the cost requirements will be for that specific item. Our cost estimates are based on projected levels of staffing and caseload requirements, and not the expected inflation rate.

6. Question: For the record, please describe the current condition of the building that houses the Commission; efforts made to rehabilitate the building; efforts made to secure new quarters; and any appropriate correspondence between the Commission or its staff and the General Services Administration regarding these issues. In addition, please explain why the Bicentennial Building is unacceptable to the Commission as an alternative to its current quarters.

Response: As described in a response to a previous question, the ITC Building is structurally sound, but it is in extremely poor physical condition and is undergoing considerable deterioration. Substantial repairs have been needed since the early 1970's, and in 1974, the Congress authorized a prospectus for $5.8 million. These funds were made available for several projects, including repairing exterior masonry, shoring up the inner courtyard and resurfacing it, repairing the roof, upgrading the electrical and plumbing systems, improving the heating and air conditioning system, making alterations for the handicapped, improving fire and safety systems and upgrading the elevators. However, it is our understanding that only $1.2 million of the authorized $5.8 million was actually spent. Approximately 30 percent of the $1.2 million was used for "design and management" costs leaving only about 70 percent or slightly over $800,000 for actual repairs. Two of the major projects funded in this prospectus, i.e., roof and inner courtyard repairs, were not satisfactorily completed. The roof still leaks and the inner courtyard has temporary shoring and was never resurfaced.

The Commission has expended considerable effort over the last year to get a repairs and alterations prospectus before the Congress. On March 31, 1982, former Chairman Bill Alberger wrote to GSA asking that major renovations be made, or that steps be taken to transfer the Commission to a suitable location which would house all of the Agency's staff. Approximately two weeks later GSA staff came to Chairman Alberger's office to report that since there were no near-term plans to consolidate the Commission in one location, or to turn the building over to the Smithsonian, a prospectus should be proposed for FY 1985 funding of about $10 million. It was agreed that staffs of both agencies would work out the details. Work proceeded at the staff level until the middle of October 1982, and ITC staff was advised at various times during that period that the request would be made for FY 1985 or FY 1986 at the latest.

However, in mid October 1982, ITC learned that the GSA's central office Project Review Board recommended to Administrator Carmen that funding be delayed until fiscal years 1988 and 1989. Current ITC Chairman Eckes immediately appealed to Mr. Walter Haase, Commissioner of GSA's Public Buildings Service. His assistant, Mr. Paul Chistolini, confirmed in writing to Chairman Eckes in early November that the FY 1988-89 funding schedule was GSA's position, but that the schedule was not final and ITC could contact Mr. James Whitlock at the National Capital Region to justify rescheduling of the project. Chairman Eckes wrote to Mr. Whitlock suggesting a meeting as soon as possible.

The meeting with Mr. Whitlock on November 19, 1982, was quite unsatisfactory. At the meeting he maintained that it was not cost effective to repair our aging facility. GSA, he reported, was close to reaching an agreement with the Smithsonian to turn over the building. He said that alternative space should be found for the Commission in a "timely" fashion, which from the GSA point of view would be six months to a year from November 1982.

He recognized that the ITC did not wish to move until it had located sufficient space in the downtown area to house most or all of its operation (100,000 - 125,000 square feet of office and related space). As there was nothing in downtown government buildings to suit Commission needs at the time, he urged use of space in Hyattsville or Germantown, Maryland. Alternatively, he said we could situate in several small downtown spaces.

Chairman Eckes reiterated the Commission's need to remain close to Congress and certain Executive agencies in light of its day-to-day relationships and its need to do technical work in support of government trade and legislative initiatives. Because many Congressmen appear at ITC hearings, it would be necessary to be located convenient to the Hill. ITC also should be near public transportation to serve the businessmen and lawyers who come from all over the United States and the world to testify. Additionally, the agency could not do its work effectively if its commodity analysts and computer operations were to be separated further from headquarters than they are now.

On December 3, 1982, Chairman Eckes sent an appeal to Administrator Carmen pointing out the importance of the Commission remaining at its present location, and that the Commission should not have to wait any longer for the overdue repairs. It was also pointed out to Mr. Carmen that it did not make sense to transfer the building to the Smithsonian since no Federal funds would be saved. The Commission's point to Mr. Carmen was that if it was not cost effective for GSA to repair the building, then it could not be justified by the Smithsonian either.

Two months later, on February 4, 1983, Mr. Carmen replied upholding his Project Review Board's schedule for funding in Fiscal Years 1988 and 1989. However, he did advise the Commission that in the meantime, GSA's National Capital Region would "continue its current program of preventive maintenance and repairs in the building." Chairman Eckes subsequently wrote to Mr. Whitlock advising him specifically of building problems and asking him for a plan to make long-overdue repairs. He responded on March 17, 1983, with a plan which indicated that some work would be performed, but many of the major problems would have to be funded under a prospectus authorization.

With respect to the Smithsonian transfer question, Mr. Carmen advised the Commission in his February 4 letter that GSA "has been informally advised by the Smithsonian that they continue to be interested in occupying the building. However, transferring the building to the Smithsonian would occur only if GSA could relocate the ITC to a mutually acceptable location already in our space inventory." Although this does not settle the transfer issue, it at least assures ITC that the Commission would be a vital participant in such a decision. It would be preferable, however, to have the question of future occupancy settled once and for all, so that an appropriate overall renovation plan could be developed.

Attached for your information is a copy of the correspondence referred to in this reply:

CHAIRMAN

UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C. 20436

March 31, 1982

Mr. John T. Myers
Assistant Regional Administrator
Public Buildings Service
General Services Administration
National Capitol Region
7th & D. Street, S. W. - Rm. 7911
Washington, D. C. 20407

Dear Mr. Myers:

The purpose of this letter is to register my concern over the United States International Trade Commission's space situation and to ask your advice as to how we can jointly proceed to improve the situation.

As you know, the Commission presently operates from three locations: the ITC Building at 701 "E" Street, N.W. (which is our main building), the Bicentennial Building at 600 "E" Street, N.W., and the Dodge Center at 1010 Wisconsin Avenue, N.W. Although we are not able to operate as efficiently from these three locations as would be possible from one our main problem is the continuing deterioration of the ITC Building which was built 150 years ago. Even with work which presently is underway to repair the roof, renovate the inner courtyard, shore up the foundation on the 7th Street side, and to provide additional electrical power we are still faced with having to conduct most of our operations from a building which is sorely in need of restoration and upgrading to bring it up to modern office space standards. We are both well aware of the numerous attempts which have been mounted in the past to get the needed work funded. However, I feel we should now review our current situation and decide on the course of action we should take to complete the task or whether an alternative location for the Commission would be more appropriate.

On September 9, 1981, you sent us cost estimates totalling $9.1 million (projected to November 1983) for the basic repairs and improvements which remain to be done in the ITC Building. The scope of the project as described in the form accompanying your letter generally covered our requirements with the exception of possibly converting the former GSA Guard School from a storage area to general office space. However, I assume that no further action has been taken to propose such a prospectus to the OMB and ultimately to Congress. It would be useful for us to review our requirements with you and to establish a schedule for when GSA would make a formal proposal for actual funding of the project. It would also be appropriate for us to determine whether former GSA Administrator Freeman's decision to eventually transfer the ITC Building to the Smithsonian Institution is still under consideration (October 12, 1979, letter to former Chairman Parker enclosed).

There may be alternatives to spending the additional funds for renovating the ITC Building which we should discuss. A viable alternative to the Commission would be to provide sufficient space for the agency at a single location in the Federal Triangle area. Members of our staff were recently shown three parcels of vacant space at 12th & Pennsylvania Avenue totalling a little over 20,000 square feet which had been occupied by the ICC. The type of space shown to them and its location has the possibility of being an alternative location for the Commission provided we could be located contiguously. We, of course, did not accept the offer of the 20,000 square feet since there were no guarantees that sufficient space would be eventually available for the entire Commission (approximately 100,000 square feet). I think it would be useful if we could discuss this possibility.

In summary, it is the U. S. International Trade Commission's position that firm plans should be made now to complete the renovations of the ITC Building or to make a decision that the Commission will be provided sufficient acceptable alternative space which would locate all of our operations in one place. I welcome the opportunity to talk with you at your early convenience.

Sincerely,

Bill Alberger

Bill Alberger
Chairman

Honorable Joseph O. Parker
Chairman
United States International
Trade Commission
Washington, DC 20436

Dear Mr. Chairman:

This is in reference to the discussions between our respective Agencies over the last several years regarding the disposition of space in the Tariff Building. Although I do not anticipate a change in the assignment of space in the building occurring in the near future, it is my intention to honor the longstanding commitment to transfer it to the Smithsonian Institution.

However, in the meantime, I have directed that necessary repairs and alterations be accomplished to improve the overall condition of the building. Hopefully, market conditions in the area will improve to the extent that your specific requirements may be included in a prospectus submission within the next 2 years. This will permit satisfaction of your consolidated space needs by a lease construction project.

If you have any questions, please do not hesitate to contact me.

Sincerely,

(Signed) R. G. Freeman III
Administrator

CHAIRMAN

UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, D.C. 20436

October 19, 1982

Mr. Richard O. Haase
Commissioner, Public Buildings Service
General Services Administration
18th and F. Streets, N. W. - Room 6344
Washington, D. C. 20405

Dear Mr. Haase:

Since last April, the U. S. International Trade Commission has been working with the National Capital Region to develop a prospectus for proposed alterations of the ITC Building at 701 "E" Street, N.W., in the amount of $9.9 million. Included in the proposal, which was submitted to GSA Headquarters during the summer, are such requirements as the upgrading of the electrical distribution system, installation of HVAC and fire safety systems, and the repair and renovation of the exterior and interior of the Building. The purpose of this letter is to register the Commission's deep concern over the decision of GSA's central office planning board to propose to the Congress that these alterations be scheduled for FY 1989, with design work to be accomplished in FY 1988. I do not feel that the Commission should have to wait that long given the condition of this Building. Our requirements should instead be proposed for authorization in FY 1985, which I understand is the earliest period available in the multi-year (1985-1989) alterations plan you will be submitting to Congress in January.

The ITC Building, built well over 100 years ago, is in disrepair and falls far short of meeting many of the minimum standards for continued use as office space. Although I was not at the Commission at the time, I have been advised that there was an approved prospectus in effect starting in 1974, which included funds to remedy many of the same problems the current proposal addresses. However, very little was done before the authorization expired in 1979 or 1980. Therefore, we should take the earliest opportunity to obtain another authorization to stem the increasing deterioration of the Commission's headquarters.

When the matter of renovations was raised with the National Capital Region last spring, former Chairman Alberger stated the Commission's firm desire that required renovations be scheduled as soon as possible or acceptable alternative space be made available to house all agency operations in one location. (A copy of his March 31, 1982, letter is enclosed). The National Capital Region's response to the Chairman *was that, since there was no space available for the Commission to be placed in one location and there were no plans to remove the ITC Building from the Federal inventory of space, plans should be made to accomplish needed renovations as soon as possible. The Region's response was made in a meeting with Mr. Alberger and myself. Neither I nor my staff have been advised of any change to this approach. The central office planning board's decision to place our renovations at the end of the prospectus planning period is inconsistent with this position and our needs.*

The Commission's renovation requirements should be submitted to Congress as a matter of urgency. I would appreciate hearing from you in the near future.

Sincerely,

Al Eckes

Alfred E. Eckes
Chairman

General Services Administration
Public Buildings Service
Washington, DC 20405

NOV 4 1982

Honorable Alfred E. Eckes
Chairman, United States
International Trade Commission
Washington, DC 20436

Dear Mr. Eckes:

This is in response to your letter of October 19, 1982, regarding the proposed alterations of the ITC Building at 701 E Street, N.W.

Your understanding that the alteration project at 701 E Street, N.W., has been tentatively scheduled by the Project and Planning Review Board (PPRB) to be designed in FY 88 with construction in FY 89 is correct. However, this schedule is not final and can be revised through a rescheduling of projects.

The National Capital Region (NCR) can request that this project be scheduled earlier in the plan. However, due to limited funding levels the NCR would have to delay other projects included in the earlier year. The NCR would have to initiate the rescheduling of the projects.

We recommend that you write the Assistant Regional Administrator for Public Buildings and Real Property, Mr. James G. Whitlock, 7th & D Street, S.W., Washington, D.C. 20407, to justify rescheduling your project to the PPRB.

Paul Chistolini

PAUL CHISTOLINI
Acting Assistant Commissioner
for Buildings Management

CHAIRMAN

UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, D.C. 20436

November 10, 1982

Mr. James G. Whitlock
Assistant Regional Administrator
Public Buildings and Real Property
National Capital Region
General Services Administration
7th & D. Streets, S.W. - Room 7911
Washington, D. C. 20407

Dear Mr. Whitlock:

During the last seven months, the U. S. International Trade Commission has been working with the staff of the National Capital Region to develop an alterations plan prospectus for the ITC Building at 701 E. Street, N.W. The purpose of this letter is to ask you to request the GSA Headquarters' Project and Planning Review Board (PPRB) to schedule this urgent work for authorization in FY 1985, instead of the FY 1988-89 time period for which it is now tentatively scheduled.

Enclosed for your information and background are three letters concerning our requirements:

1. A March 31, 1982, letter to your predecessor, Mr. John Myers, which initiated our request and started a series of discussions, including an initial meeting with former Chairman Alberger, myself, and members of our staffs on April 19, 1982.
2. An October 19, 1982, letter to Mr. Richard Haase appealing the PPRB's decision to schedule the work for FY 1988-89.
3. Mr. Paul Chistolini's November 4, 1982, reply to my October 19 letter.

As I described in my October 19 letter to Mr. Haase, the alterations included in the proposed $9.9 million prospectus are urgent and the Commission should not be expected to wait for another six or seven years for work to begin. The ITC Building is currently in a decrepit condition resulting from many years of neglect. It would seem to be in the best interest of GSA and the Federal Government to make these repairs and alterations as soon as possible to avoid further deterioration and additional costs.

Since Mr. Chistolini advises me that the scheduling of alterations projects in the multi-year prospectus (FY 1985-89) is not final, I strongly request that the Commission's requirements be proposed to the Congress for FY 1985 authorization. I realize there are most likely several competing demands for early authorization, but it is difficult for us to accept that there are any more pressing needs than ours. Your immediate attention to this matter would be appreciated. Instead of continuing a series of written communications, I suggest that we meet at an early date to fully discuss the matter. My telephone number is 523-0155.

Sincerely,

Al Eckes

Alfred E. Eckes
Chairman

UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, D.C. 20436

DEC 3 1982

Mr. Gerald P. Carmen
Administrator
General Services Administration
18th & F Streets, N.W.
Washington, D.C. 20405

Dear Mr. Carmen:

Since last April, the U.S. International Trade Commission has been working with your Agency's staff at the National Capital Region (NCR) to prepare a repairs and alterations plan prospectus for the ITC Building at 701 E Street, N.W., in the amount of $9,930,000. We were initially informed by NCR that the critical nature of our repairs merited consideration for prospectus authorization in FY 1985, but subsequently the GSA Headquarters' Project and Planning Review Board made a tentative decision to request aithorization for FY 1988-89. After bringing this matter to the attention of Mr. Haase at GSA Headquarters and Mr. Whitlock at NCR we have now been advised that there are higher priorities for limited repairs and alterations funds, and that the Commission should consider relocating to currently leased space in the Metropolitan area. We find this decision unacceptable and ask for your personal reconsideration.

The ITC Building, constructed over 100 years ago, is one of the City's historic landmarks. The U.S. Tariff Commission, now the U.S. International Trade Commission, began occupying the Building in 1921 and it has served as the Commission's headquarters since that time. The staff has expanded over the years to the point where the Commission is in two additional locations which are leased: the Bicentennial Building one block away, at 600 E Street, N.W.; and the Waterfront Center at 1010 Wisconsin Avenue, N.W. While we have found these separations to detract from efficient operations, we have become accustomed to it; but, we continue to struggle with the continuing deterioration of our headquarters building. Some essential repairs have been completed and others are in progress, but work amounting to at least $10 million remains to be done and is long overdue. In fact, a majority of our current repair needs were also a part of an approved prospectus back in the mid to late 1970's and have been only partially met. The Commission should not have to wait any longer, and an authorization and appropriation at the earliest possible date is clearly necessary.

In addition to being advised that it would not be cost effective to repair the ITC Building, we have been told that GSA wishes to transfer the Building to the Smithsonian Institution if the Smithsonian makes a formal request. This does not make sense to us if the reason for transferring the building is to save Federal funds. Smithsonian Officials have informed us that the Smithsonian would have to seek an appropriation for at least an equal amount, or more, to convert it into a combination museum and office facility. If it is not cost effective for GSA to repair the ITC Building, then it cannot be justified by the Smithsonian either.

As previously noted, the ITC Building has been the Commission's headquarters since 1921, and it has suited our needs reasonably well. We should remain in the building because of its location and to continue the long-standing tradition that this is the building which houses the Federal Government's independent fact-finding body dealing with trade and tariff matters. The Commission has a particular need to remain close to both the Executive and Legislative Branches in light of our special relationships, and our need to perform technical work in support of government trade and legislative initiatives. A downtown location is also important since many Congressmen and Senators appear at our hearings, and we also must be near suitable transportation to serve the businessmen and lawyers who come from all over the world to testify.

The ITC Building needs repairs now, and should not be transferred to the Smithsonian Institution. We have considered alternative locations which have been presented to us, and have found them to be unacceptable for a variety of reasons. I urge that you look into this matter personally and advise me of the extent and timing of repairs and alterations we can expect to the ITC Building. It also would be useful if you could inform me of GSA's official position regarding the transfer of the building to the Smithsonian Institution. This has been an issue for many years, and, in my opinion, has caused unnecessary delays in making needed repairs. An early reply will be appreciated.

Sincerely,

Al Eckes

Alfred Eckes
Chairman

GSA General Services Administration National Capital Region Washington, DC 20407

FEB 7 P1:23

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FEB 4 1983

Honorable Alfred Eckes
Chairman, United States
International Trade Commission
Washington, DC 20436

Dear Mr. Chairman:

Thank you for your letter of December 3, 1982, concerning plans for the International Trade Commission (ITC) Building.

I understand that you recently met with the National Capital Region's Assistant Regional Administrator for Public Buildings and Real Property concerning this matter. I have thoroughly reviewed the situation with officials of the Public Buildings Service and the Regional Office. Based on the information furnished to me, and that provided in your letter, I concur in the Project Review Board's schedule for repairs and alterations to be funded in Fiscal Years 1988 and 1989. As you know, only limited funds are available for such projects and rescheduling the repairs and alterations in the ITC Building would require the delay of other projects deemed to be more critical. Until the work begins, our Regional Office will continue its current program of preventive maintenance and repairs in the building.

With reference to transferring the building to the control of the Smithsonian Institution, the General Services Administration (GSA) has been informally advised by the Smithsonian that they continue to be interested in occupying the building. However, transferring the building to the Smithsonian would occur only if GSA could relocate the ITC to a mutually acceptable location already in our space inventory.

I appreciate knowing of your concern and hope that this clarifies our position on this matter.

Sincerely,

Gerald P. Carmen
Administrator

CHAIRMAN

UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, D.C. 20436

February 22, 1983

Mr. James G. Whitlock
Assistant Regional Administrator
for Public Buildings and Real Property
National Capital Region - Room 7911
General Services Administration
7th & D Streets, S. W.
Washington, D. C. 20407

Dear Mr. Whitlock:

As you know, subsequent to our meeting on November 19, 1983, concerning the condition of the ITC Building at 701 E Street, N. W., I brought the matter to Administrator Carmen's attention, and on February 4, 1983, he advised me that the funding of a repairs and alterations prospectus could not be scheduled until Fiscal Years 1988 and 1989. I am disappointed in his decision, and would hope that in the process of considering the FY 1985 budget our requirements could be scheduled earlier. However, in the meantime we would like to be informed of what we can expect in the way of a program of preventive maintenance and repairs which Mr. Carmen alludes to in his February 4 letter (reference last sentence of second paragraph).

It is our view that the current level of preventive maintenance and repairs is insufficient and must be substantially improved. Enclosed is a list of the major items which should be addressed now along with a status report, as we understand it, for those projects which are underway. I recognize that the list is sizeable, but most of the problems we are facing today were expected to be addressed with the $5.8 million prospectus authorized by Congress in 1974. It is indeed unfortunate that only $1.2 million of the authorization was actually spent before it expired resulting in being faced with more costly repairs.

I look forward to an early reply which would advise us of your plans in each of the areas listed in the enclosure and any others which should be brought to our attention. It is important that we accelerate a joint effort to preserve this historic landmark and maintain it as a functioning office building serving as the headquarters of the U. S. International Trade Commission.

Sincerely,

Alfred Eckes
Chairman

U. S. INTERNATIONAL TRADE COMMISSION

Preventive Maintenance and Repair Problems at the ITC Building, 701 E Street, N. W. Washington, D.C.

Exterior

Roof and drains - repairs to the leaky roof have been unsuccessful to date and we hope that the project which is in the design stage now will correct the problem. However, we understand that the problem of clogged drains which causes water to stand in gutters for several days after precipitation is not going to be addressed. This problem has been brought to GSA's attention; we feel that the repair job should be a complete project.

Shoring up and resurfacing the inner courtyard - This is an area used for ITC employees carpool parking and Postal Service vehicles. A contract was awarded and underway to shore up the courtyard and to resurface it, but it was aborted in 1982 with only new footings being installed. We are now using a courtyard which is temporarily shored up and has not been resurfaced. We would like to be advised of the safety of this area and whether there are any plans to finish the uncompleted work.

Windows - There is an urgent need to make major repairs to many of the building's windows. Several of them have been cited as safety hazards, and recently a window pane fell from the second floor just above an entrance. Fortunately, nobody was injured and that particular window was fixed. However, we are concerned over the possibility of future occurrences. The condition of many of the windows will require substantial carpentry and painting work which we understand is beyond the level of resources available at the GAO field office which services the ITC Building.

Walls - large pieces of masonery have fallen from several places on the outside of the building. At the very least there should be a safety inspection and repairs made to the areas which are presently or potentially dangerous.

Interior

Ceilings and Walls - the many years of roof leaks and the lack of a cyclic painting program has caused many ceiling and interior wall surfaces to deteriorate, and more than repainting will be required. We understand that a contract for painting is presently going through the award process and that we will most likely have to wait until sometime this summer before work starts. We would like confirmation of our understanding as well as assurance that the ceiling and wall surfaces will be properly repaired prior to painting. It would also be helpful to obtain a list of the rooms which are expected to be painted and an estimate of the length of time it will take to complete the work.

Restroom facilities and plumbing systems - The prospectus prepared by the National Capital Region and submitted to the headquarters Project Review Board stated that the existing drinking water, water supply and waste piping systems are beyond their useful life. We wholeheartedly concur in this assessment and note that there are no facilities for handicapped persons. We would hope that something could be done to rectify this deplorable condition.

Electrical - After several years of effort new electrical transformers and high voltage switchgear are being installed. However, it appears to us that there should be a follow-on plan to ensure even power distribution throughout the Building thereby avoiding persistent power failures which we experience. It is recognized that new wiring would probably require a prospectus funding level, but we should explore intermediate methods.

Fire safety - We would hope that an emergency source of electricity could be installed along with the current effort to provide more power. An assessment should also be made of whether the building's current fire alarm and exit light systems conform to current codes and regulations.

Elevators - Perhaps there is little which can be done to building's inadequate elevators prior to prospectus funding, but it is important to note that neither of the two small elevators in the building are equipped for the handicapped nor are large enough for freight. Any upgrading which could be done prior to prospectus funding would be appreciated.

Heating and cooling - It is recognized that a central heating and cooling system is a long-range project, but it is important that an assessment be made of the service life of the several existing systems in the building. We have been experiencing particular difficulty with the system serving the Hearing Room and have asked GSA several times for a cost estimate to upgrade it. We made two requests in 1981, one of which was worked on by GSA, but a report was never received. In October 1982, when responsibility for servicing the ITC Building was transferred to your GAO field office we submitted a new request. The survey is underway and we are expecting a comprehensive report in March. We would appreciate assurance that the report will be submitted on time, as well as an overall assessment of the other systems as soon as possible.

GSA
General Services Administration
National Capital Region
Washington, DC 20407

MAR 1 1983

Honorable Alfred Eckes
Chairman
U.S. International Trade Commission
Washington, DC 20436

Dear Mr. Chairman:

Thank you for your letter of February 22, 1983, concerning the condition of the ITC Building at 701 E Street, N.W. This office is currently evaluating the list of items included in your letter. The evaluation will be completed within two weeks and will be forwarded to you for consideration.

Sincerely,

THEODORE C. LEININGER
Acting Assistant Regional Administrator
for Public Buildings and Real Property

General Services Administration
National Capital Region
Washington, DC 20407

MAR 17 1983

Honorable Alfred Eckes
Chairman
U.S. International Trade Commission
Washington, DC 20436

Dear Mr. Chairman:

This is a follow up to my letter dated March 1, 1983, in reference to your letter dated February 22, 1983. The following Attachment "A" is a status report on the list of Preventive Maintenance and Repair Problems included in your letter.

Questions may be directed to Mr. Kenneth R. Craddock on 472-1075.

Sincerely,

JAMES G. WHITLOCK
Assistant Regional Administrator
for Public Buildings and Real Property

Enclosure

ATTACHMENT "A"

Exterior

Roof and Drains

The General Services Administration is currently designing a project to replace the roof. This project will address the problems related to water standing in the gutter. This project is scheduled for construction award in August 1983.

Shoring Up and Resurfacing the Inner Court

The project to shore up and resurface the inner court was terminated due to contract problems. A survey has been initiated to determine the allowable live load on the deck. The survey is to be completed within four weeks. The scope of the inner court work will be developed and scheduled within 60 days.

Windows

The Buildings Manager, GAO Field Office has received a list of problem windows from your agency. These windows will be inspected and those requiring attention will be repaired within 90 days.

Wall

On March 1, 1983, Mr. Aitcheson from the Repair and Alteration Division met with Mr. Jonathan Brown from your Support Services Section to evaluate this problem. A cursory inspection of the exterior indicates that the stone in the belt course (between the first and second floor) is severely deteriorated and portions have fallen into the moat/yard area. There is no indication that the stone above this belt course is in danger of falling. Also, there is no danger to pedestrians as the moat/yard is fenced; at this time no loose stones are visible and the joints appear sound.

Interior

Ceilings and Walls

A contract to paint all office space, toilets and stairwells from the basement through the third floor is under design. This work will include repair of water damaged plaster. The work is scheduled for construction award in August 1983.

Restroom Facilities and Plumbing Systems

A project has been identified and scheduled for FY 1986 to renovate the toilet rooms at the north end of the building on the first, second and third floors. This project will upgrade the fixtures, plumbing and handicap accessibility.

Electrical

The objective of the first phase of the electrical upgrade, which has been completed, was to increase the building's electrical capacity to preclude power outages. The capacity has been increased to accommodate existing and future load requirements. The remaining work to upgrade the electrical distribution system and replacement of the low voltage switchgear are interrelated. This work is currently scheduled as part of the prospectus for Fiscal Year 1989. Installation of additional outlets as required can be accomplished by contacting the Buildings Manager, GAO Field Office.

Firesafety

The Historic Structures Analysis and Report dated June 5, 1981, provides the latest assessment of the elements of firesafety. The fire and safety features (stairs, fire alarm system, exit lights, etc.) and systems indicated in this report are due to be addressed with the overall upgrade of the building by prospectus in FY 1989.

Elevators

The manual freight/passenger elevator is scheduled to be replaced in FY 1984. In FY 1985, the automatic elevator at the south end of the building is scheduled to be upgraded.

Heating and Cooling

A survey is currently being conducted to determine the appropriate replacement and/or upgrade of the system for the Hearing Room only. This survey is due for completion in four weeks.

General Services Administration
National Capital Region
Washington, DC 20407

MAR 28, 1983

Mr. David E. Spencer, Director
Office of Management Services
U. S. International Trade Commission
Washington, DC 20436

Subject: Roof Repair of the International Trade Commission Building, Construction Contract No. GS-11B-28409.

Dear Mr. Spencer:

I am writing in response to your letter of January 27, 1983, to Mr. Ronald Williams requesting an expansion of the scope of work for roof repairs under the subject contract.

We concur in your observations of the need and timing for this additional work and have undertaken the action necessary to include replacement of the Guard House area at this time.

However, we can not include the replacement of roof scuppers and storm drainage system due to funding limitations. I am advised that the replacement of these elements is included in a prospectus request for Congressional approval for FY 88.

We have included in this contract the restoration of broken joints and seams in gutters which will include resealing the scupper locations. We believe this work will significantly reduce the problems you are presently experiencing.

If my office may be of any further assistance, you may contact me or Mr. Williams on 472-4540.

Sincerely,

RONALD N. MARIOTTI
District Manager-Design
Authorized Representative
of the Contracting Officer

The Bicentennial Building located at 600 E Street, N.W. is an unacceptable alternative to the ITC for its headquarters. ITC has had some of its staff in the Building since 1977, and at one time occupied the entire 6th floor. However, because of the poor conditions in the Building, the Commission moved as many of its operations into the ITC Building as possible, and was successful in persuading GSA to lease space at 1010 Wisconsin Avenue, N.W., for its Administrative Law Judge operation, which needed appropriate hearing space.

ITC has experienced many problems during its tenancy of the Bicentennial Building: Examples are

1. extremely poor heating and ventilation system,

2. unrealiable elevators causing employees to use stairwells which are not always safe,

3. poor overall security,

4. poor cleaning leading to a vermin problem, and

5. a poorly designed parking garage where some levels have no immediate access to building entrances.

These problems have been brought to the attention of the GSA field office responsible for dealing with the lessor. For the most part, these complaints have been made to the field office by telephone call instead of in writing (at GSA's request) to theoretically speed up a resolution of the problems.

The ITC has been advised informally and indirectly that GSA will offer the space HUD currently occupies in the Bicentennial Building as an alternative to repairing and renovating the ITC Building for the Commission's continued use. It is not certain how much space HUD currently occupies, but it appears that it has staff only on floors 9 and 10, which would total about 56,000 square feet of useable space. The ITC has a total of 74,392 square feet of office and related space in the ITC Building. Clearly, floors 9 and 10 of the Bicentennial Building are inadequate. Even if twice the space were offered in the Bicentennial Building the move from the ITC Building would be unacceptable. In addition to poor construction and maintenance in the Bicentennial Building, provision cannot be made for a large (about 3,500 square feet) unobstructed space for a hearing room -- a key requirement for the Commission. Poor ventilation would make this building unacceptable for hearings. The ITC has had as many as 150 people attending its hearings at one time, in addition to frequent television coverage.

Finally, the ITC has a printing plant requiring about 4,500 square feet in the basement of the ITC Building and would need equal space at another location. The upper floors of the Bicentennial Building would be inappropriate for this type of operation.

7. Question: In the GAO report (ID-81-42, dated 8/5/81) GAO recommended that petitioners submit more detailed adjustment strategies tied to the level of relief granted and monitor their compliance. It was also recommended that data be collected periodically on the conditions of all industries provided import relief to determine if their financial conditions have

improved and what they have done to increase their competitiveness. Could you comment on the status of ITC's efforts to work with the U.S. Trade Representative's Office on implementing these recommendations?

Response: The Commission has been expanding its data collection efforts concerning the adjustment strategies of U.S. industries seeking relief under section 201 and 203 of the Trade Act of 1974. An example of this is the detailed information that was developed in the recent motorcycles investigation (Inv. No. TA-201-47). These efforts to expand our activities in this area were done in response to informal requests by the U.S. Trade Representative's Office.

The Commission has consistently developed information on efforts made by U.S. industries to increase their competitiveness with imports during the course of all section 203 investigations where the Commission is considering whether or not the relief which is in effect should be continued.

8. **Question:** What is your view of the GAO recommendation to amend the Trade Act of 1974, as amended, to:

--require petitioners to submit to the Office of the U.S. Trade Representative specific adjustment strategies.

--not to permit only one segment of the manufacturing process to petition, e.g., labor or management, unless it is evident that this is the only segment from which specific adjustment commitments will be sought.

Response: The Commission does not have any strong views with respect to the GAO recommendation to amend the Trade Act of 1974 to require petitioners to submit to the Office of the U.S. Trade Representative specific adjustment strategies. It should be understood that if an acceptable adjustment strategy is to become a prerequisite of an industry obtaining relief under the escape clause provision this represents an additional barrier to obtaining relief.

If both labor and management are required to jointly file petitions for import relief and reach agreement on specific adjustment commitments, it is likely to lead to a reduction in the number of petitions filed. Management and labor objectives often differ significantly and frequently they would not cooperate to the extent necessary to develop adjustment commitments that would satisfy one another. Another problem associated with developing a common adjustment strategy for industries is that there is oftentimes a great variation in the economic viability of the member firms in an industry. Thus the extent of the concessions labor might need to make in order for a marginal firm to become competitive with imports would be much greater than that required to make a stronger firm competitive.

9.Question: GAO recommended that data verification could be improved if petitioners included certifications by their certified public accountants as to the accuracy of submitted data. In your response, you said that ITC continues to disagree with GAO on this matter. However, based on your response, it appears that your statistical data verification process consists primarily of testing for the consistency of the submitted data.

(a) Does this mean that current procedures could accept inaccurate, but consistent data?

(b) You claim that requiring CPA certification would delay the process and reduce time for analysis. Would not a CPA firm familiar with a petitioner's books be able to provide the certification without adding delay to the process?

(c) You also report that data of questionable accuracy is verified by ITC on trips to check respondents records. Such an effort requires auditors conversant with the accounting records and practices of the petitioning companies. Is it realistic to expect an ITC staffer to go to a petitioner's books and be able to quickly verify data?

Response: (a) Yes, the Commission could accept inaccurate but consistent data. However, during the course of a year the Commission processes thousands of questionnaire responses, thus it is questionable whether any additional verification steps that the Commission might undertake to improve what we believe to be consistently good data would be cost effective.

(b) A CPA firm that was familiar with a petitioner's books would be able to certify the accuracy of the data on the petitioner's operations that were contained in the petition without a lengthy delay. However, the primary thrust of a petition deals not with the performance of the individual petitioning company but to the performance of the entire industry on whose behalf the petition is brought. The CPA firm would not be in a position to certify the data on the overall industry performance. Furthermore, the Commission merely relies on the data presented in the petition for purposes of deciding whether or not to institute an investigation. The Commission develops data through the use of questionnaires for purposes of making its injury determinations. A requirement that the information set forth in the petition be certified as being correct by an auditor would have no bearing on the outcome of the investigation.

With regard to certification of the questionnaire response by a CPA firm, the Commission continues to believe that such certification would delay receipt of the questionnaires and consequently lessen the time available for analysis and review for statistical accuracy.

(c) ITC staffers would have difficulty in going to a petitioner's books and quickly verifying data set forth in a petition. However, since data are not only collected from the petitioner but from all other significant U.S. producers of the article under investigation, the Commission has the opportunity to check the performance of the petitioner against the performance of other representative firms within the industry and if there are reasons to believe that the petitioner's data are of questionable validity, explanations are obtained. We would like to point out that despite the large number of cases that have been conducted by the Commission in the last several years, there have not been more than three or four instances where a party to the investigations has challenged the accuracy of the statistical data developed by the Commission on the performance of the U.S. industry in question.

10. Question: Do you have information on the legal costs to firms seeking relief under Section 201? Is this cost substantial and does it discourage companies from filing petitions?

Response: We have been advised by firms seeking relief under section 201 that legal costs for a 201 proceeding may range from $50,000 to $250,000. Such costs include bringing the case before the Commission and, in the case of an affirmative determination by the Commission, pursuing the matter through the interagency review process and the final decision of the President. Such costs are substantial and may discourage companies or even industries with limited resources from filling petitions.

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

STATEMENT OF HAROLD E. SHEAR, MARITIME ADMINISTRATOR, MARITIME ADMINISTRATION;

ACCOMPANIED BY:

RUSSELL F. STRYKER, ASSOCIATE ADMINISTRATOR FOR POLICY AND ADMINISTRATION

MASON G. NOTTINGHAM, DIRECTOR, OFFICE OF BUDGET

BUDGET REQUEST

Senator SPECTER. We would like to turn to the Federal Maritime Administration.

Our next request is that of the Federal Maritime Administration. The amount requested is $82 million plus $401 million to liquidate contract authority for operating differential subsidies.

Appearing on behalf of this request is Adm. H. E. Shear, the Maritime Administrator.

Mr. Shear, we welcome you here. We kept you waiting a while. We appreciate your patience and look forward to your testimony.

Mr. SHEAR. Thank you, Mr. Chairman.

Senator SPECTER. Proceed, Admiral.

Mr. SHEAR. Mr. Chairman, I am accompanied by two members of my staff. Mr. Russell Stryker, and Mr. Mason Nottingham. I appreciate the opportunity to appear before you to present the Maritime Administration requests for appropriations for fiscal year 1984.

PREPARED STATEMENT

I have a very brief summary statement to read. I will submit a more detailed statement for the record.

Senator SPECTER. Thank you, Admiral. That would be splendid.

[The statement follows:]

PREPARED STATEMENT OF H. E. SHEAR

ADMINISTRATOR

MARITIME ADMINISTRATION

Mr. Chairman and Members of the Committee:

I appreciate the opportunity to appear before you this morning to present the Maritime Administration (MARAD) request for appropriations for fiscal year 1984.

Before going into the details of our proposed appropriations bill, I would like to summarize briefly the status of our program.

- The appropriation request for Operating-differential Subsidies will fund the continued operation of all U.S.-flag ships currently engaged in foreign trade under long-term subsidy contracts.
- The Administration's request for increased Title XI Federal ship financing guarantee authority, coupled with the Defense budget request for Navy ship construction and repair are consistent with the Administration's commitment to sustain essential shipbuilding capacity.
- The budget request for Research and Development will fund projects aimed at improving ship operating and shipbuilding productivity.

The budget is premised on the enactment of legislation which would extend authority for shipowners to construct or acquire ships abroad while remaining eligible for operating subsidy.

We are proposing appropriation levels as follows:

- For Operating-differential Subsidy - an appropriation to liquidate contract authority of $401,294,000 is requested.

This appropriation and an estimated carryover of $38,416,000 will provide for $439,710,000 in outlays to finance the operation of 151 ships, $7,657,000 more than the estimated 1983 outlay total.

- For Research and Development - a total of $11,500,000 is proposed. This involves a net decrease of $3,800,000 from the 1983 appropriation level.
- For Operations and Training activities - $71,013,000 is proposed. This includes $32,655,000 to cover Maritime Education and Training; $8,048,000 for National Security Support Capability, including reserve fleet expenses; and $30,310,000 for Operating Programs which cover most of our personnel and administrative costs.

OPERATING-DIFFERENTIAL SUBSIDIES

The Merchant Marine Act of 1936 provides that operating subsidies equal the differential between certain U.S. and foreign ship operating costs. The Operating-differential Subsidy program covers wages, maintenance and repair, some insurance costs, and, for some vessels, subsistence.

The Administration continues to meet its obligations under existing Operating-differential Subsidy contracts. As noted, the appropriation request for Operating-differential Subsidies totals $401,294,000, to which will be added a carryover estimated at $38,416,000. Outlays will total $439,710,000, including $15,000,000 for payment of amounts due for prior year operations. As in 1983, the program will support 151 ships, 130 liners and 21 bulk ships.

The outlays for current year operations reflect an increase in the cost of operations (+$21,244,000), minor adjustments in the subsidized fleets (+$713,000), and a decrease in prior-year payments (-$14,300,000).

RESEARCH AND DEVELOPMENT

The Maritime Administration's Research and Development program works to make the U.S. shipbuilding and ship operating industries more productive and competitive. Research activities address problems common to U.S. shipyards and operators - problems that individual companies could not undertake within their own limited resources.

The 1984 request for Research and Development is $11,500,000, which involves a net decrease of $3,800,000 from the FY 1983 budget of $15,300,000. The change reflects two factors. First, the completion of the current phase of the Arctic shipping program yields a decrease of $4,700,000. MARAD has sponsored cost shared Arctic trafficability tests from FY 1979 to FY 1983 in cooperation with the U.S. Coast Guard, the State of Alaska, the Canadian Government, and the Alaskan Oil and Gas Association (AOGA). Sufficient data will have been gathered during these tests to confirm the feasibility of Arctic operations. To the extent that funding may be required for implementation, we believe that it is appropriate for industry to take the lead. The second change from 1983 involves an increase of $900,000 for an enhanced program in the area of crew size reductions and improvement of ship control in shallow waters.

OPERATIONS AND TRAINING

The request for Operations and Training is $71,013,000, a net decrease of $7,100,000 from the full year amount provided in the further Continuing Appropriations Act, 1983.

$20,266,000 is requested for the United States Merchant Marine Academy at Kings Point, New York. Increases over the 1983 total include $633,000 to cover increases in Academy operating expenses, $1,700,000 for the facilities modernization program and $261,000 for operation and maintenance of the Academy's small training ship.

$10,668,000 is requested for financial assistance to the six State marine schools, which are located in California, Texas, Michigan, New York, Massachusetts, and Maine. This involves a decrease of $7,100,000 from the 1983 total, attributable to the non-recurrence of the 1983 add-on of funds for the repair or replacement of the ship on loan to the Massachusetts Maritime Academy. The requested funds will provide $600,000 for direct payments to the schools, $2,600,000 for student incentive payments, and $7,468,000 for the maintenance and repair of schoolships.

$1,721,000 is requested for Additional Training activities, which includes an increase of $9,000 attributable primarily to increased pay costs.

$8,048,000 is sought for the National Security Support Capability program, which includes funds for the National Defense Reserve Fleet. This account shows a net increase of $619,000 for higher operating costs of this program.

Finally, $30,310,000 is requested for other Operations and Training expenses. These funds provide for program costs, including most agency personnel and overhead costs, plus direction and administration of several agency activities. A net decrease of $3,222,000 is attributable to a reduction in personnel and associated operating costs offset to a degree by operating cost increases.

FEDERAL SHIP FINANCING PROGRAM

The Administration is proposing a limitation for 1984 on new commitments for loan guarantees. This limitation would amount to $900,000,000, including $300,000,000 that is to be held in reserve for use, if needed, in the interest of national security. This proposed limit is adequate to provide loan guarantee assistance sufficient to cover anticipated 1984 activities.

This concludes my prepared statement, Mr. Chairman, and I will be glad to answer the Committee's questions.

OPERATING DIFFERENTIAL SUBSIDIES

Mr. **Shear**. The budget was premised on enactment of legislation which would extend authority for shipowners to construct or acquire ships abroad while remaining eligible for operating subsidies.

The present request I have today covers four main areas: the first area is operating differential subsidies. The administration continues to meet its obligations under the existing operating-differential subsidies contracts. The appropriations request for ODS subsidies totals $401 million to which will be added a carryover estimated at $38.4 million. The total outlays will be $439 million including $15 million for payments of amounts due for prior year operations. As in 1983, the program will support 151 ships, consisting of 130 liner vessels and 21 bulk ships.

RESEARCH AND DEVELOPMENT

The second area is research and development; 1984 request for R&D is $11.5 million which includes a net decrease of $3.8 million from the fiscal 1983 budget of $15,300,000. The change reflects the completion of the current phase of the Arctic shipping program which yields a net decrease of $4.7 million and is partially compensated by an increase of $900,000 for studies in crew areas and shallow water ship operations.

OPERATIONS AND TRAINING

The third area is that of operations and training. The request for operations and training is $71 million, a net decrease of $7.1 million from the full year amount provided in the continuing resolution of 1983.

Twenty million dollars is requested for the U.S. Merchant Marine Academy at Kings Point. An increase over the 1983 totals of $1.7 million is included for the facilities modernization program at that institution; $10.8 million is requested for financial assistance to the six State Maritime Schools which are located in California, Texas, Michigan, New York, Massachusetts and Maine. This involves a decrease of $7.1 million from the 1983 totals, which is attributable to the nonreoccurrence of 83 add-on funds for the repair or replacement of the ship on loan to the Massachusetts Maritime Academy which was severely damaged by fire a year ago.

The amount of $1.7 million is requested for additional training for seafarers, primarily in the fire fighting and diesel engine training areas; $8 million is sought for the National Security support capability program which includes $7 million for the National Defense Reserve Fleet and $1 million for emergency planning operations.

Finally, $30 million is requested for other operations and training and expenses.

Senator **Specter**. Excuse me just a minute, Admiral.

[Pause.]

Mr. **Shear**. Finally, $30 million is requested for other operations and training expenses. These funds provide for the program costs including most agency personnel and overhead costs.

FEDERAL SHIP FINANCING PROGRAM

The fourth area of interest is the Federal ship financing program, and the administration is proposing a limitation for 1984 on new commitments for loan guarantees. This limitation would amount to $900 million which includes $300 million to be held in reserve for use, if needed, in the interest of national security.

This concludes my brief summarized comments, Mr. Chairman. I will be happy to answer any questions that you may have.

OPERATING-DIFFERENTIAL SUBSIDIES

Senator **Specter**. Thank you very much, Admiral.

Admiral, what do the subsidies involve, operating-differential subsidies? What does that involve?

Mr. **Shear**. The operating-differential subsidies go all the way back to 1936 Merchant Marine Act. Their status at that time was to make up the difference in cost between the cost of operating an American flag vessel versus what it costs to——

Senator **Specter**. These are governmental subsidies for commercial vessels?

Mr. **Shear** [continuing]. For commercial vessels, for the operating fleet, both the liner fleet and portions of the bulk fleet.

PENDING LEGISLATION

Senator **Specter**. There is legislation which is currently pending, introduced on the Senate side by Senator Trible. Are you familiar with this?

Mr. **Shear**. Yes, I am. I testified before Senator Trible last week.

Senator **Specter**. What is your opinion of that?

Mr. **Shear**. That is a proposal to reinstate $200 million worth of CDS construction-differential subsidies. That would be to make up for the differences in costs of what it costs to build a vessel in an American yard, a seagoing commercial vessel, versus what it would cost in a foreign country.

The administration does not support that.

Senator **Specter**. The legislation, I think, that he is proposing picks up some subsidies to the extent of requiring that American cargo be on American-built ships. I believe it is currently 5 percent?

Mr. **Shear**. That is a different situation. I explained the construction-differential subsidies.

Senator **Specter**. This would not be a subsidy, per se. This proposal would be to insure cargo preferences.

Mr. **Shear**. Preferences, yes. And that was introduced in both the Senate and the House.

Senator **Specter**. Yes. I do not wish to press you unduly because the administration may not have taken a position on it, but I would be interested in your views if you are free to give them.

Mr. **Shear**. The administration has not yet taken a position on those bills.

REVITALIZATION OF MERCHANT MARINE

Senator **Specter**. It is a complex question, because we need a merchant marine from all accounts. Would you agree that our merchant marine definitely needs revitalization?

Mr. **Shear**. There is not any question. Our merchant marine has been going downhill for 30 years, and it drastically needs revitalization.

Senator **Specter**. Was it in good shape 30 years ago, in 1953, say?

Mr. **Shear**. We ended up in World War II with the biggest merchant marine in the world, a fleet that was built largely during the war. We had Liberty ships, then followed up with the Victory ships and a whole series of tankers. At the end of the war, we were generous with that fleet. We sent them to countries in need. Millions and millions of tons had been offered during the war.

Senator **Specter**. Did we give them away?

Mr. **Shear**. At modest prices, and we had ourselves a fleet of several thousand vessels which we operated extensively into the 1950's.

From the 1950's on, that fleet has been dwindling. We have gone from some 1,100 ships in about 1950 to about 500 ships at the present time.

Senator **Specter**. 1,100 ships in 1950 to 500 ships at the present time?

Mr. **Shear**. Now, that is not an even comparison, because modern ships, with the equipment and size, have significantly more cargo carrying capacity than did a typical ship built during or at the end of the war. But nonetheless, we have lost a sizable number of vessels.

COMPARISON OF WORLD MERCHANT FLEETS

Senator **Specter**. On a comparative basis, we have been overtaken by many other nations?

Mr. **Shear**. We have, indeed. We have.

Senator **Specter**. Which are the nations which are now in the forefront of merchant marines?

Mr. **Shear**. The Russians, typically, with a fleet three or four times as large as ours; the British, although the British fleet has been declining; the Japanese have a modern and vigorous fleet; the Scandinavians have an excellent cross-trading fleet. Of course, we have a problem at the present time with overtonnaging.

Senator **Specter**. Tonnaging; too big?

Mr. **Shear**. Yes, worldwide, we are faced today with the most severe shipping and shipbuilding slump in the past 50 years.

MERCHANT MARINE SUBSIDY

Senator **Specter**. What is the total of the subsidies which the Federal Government gives to the merchant marine, that is, generally?

Mr. **Shear**. Yes, we administer that.

Senator **Specter**. You administer that?

Mr. **Shear**. Yes.

Senator **Specter**. What is that total?

Mr. **Shear**. The only subsidies remaining at present are the operating subsidies which we are requesting $401 million this year plus carryover from prior years.

Senator **Specter**. And this is a subsidy which the Government gives to private shippers to keep them going?

Mr. **Shear**. It is given to specific operating companies, the main liner companies, and certain of the bulk companies to make up the difference of what it costs to operate their ships versus what it costs to operate a foreign vessel.

Senator **Specter**. Why are the foreign vessels operating less expensively?

Mr. **Shear**. A number of reasons, sir: first of all, they have gone, in the past 10 to 12 years, almost exclusively to low-speed and modern, efficient, diesel-powered plants. They operate at significantly reduced costs than our plants.

Furthermore, they operate with considerably smaller crews than we do for several reasons: the vast majority of our fleet today are relatively inefficient, expensive, steam turbine, and oil-fired powerplants. With the consumption of fuel today, as well as the size of the crew, a typical American crew would be somewhere between 30 and 40 men depending on the ship, and a typical foreign crew would be between 18 to 22 men.

Senator **Specter**. Because our equipment is outmoded, essentially?

Mr. **Shear**. Yes, and the programs we have ongoing at present are pushing for rejuvenation of the most modern ships that we can get.

Senator **Specter**. How are we doing that?

BUILD FOREIGN

Mr. **Shear**. The only way we can get a competitive ship at the present time is to build that ship foreign. That is a travesty, but it is a fact. A modern ship today, meeting all of our highest standards of Coast Guard and the American Bureau of Shipping standards, can be built overseas, particularly in the Far East.

Senator **Specter**. Are you buying ships foreign?

Mr. **Shear**. Yes, we are building them foreign. We had a window to do that which closed last October, the first of October. At that time, we had 30-odd ships under order for construction abroad. Then in the administration package this year, which was introduced just week ago, we propose to extend that authority to build foreign.

Senator **Specter**. Why is it that they can build them cheaper foreign than we can build them in the United States?

Mr. **Shear**. A number of reasons: the cost is one. Productivity is another. Costs of components and equipment is another. These all add up to very significant factors.

ELIMINATION OF OUR SHIPBUILDING FACILITIES

Senator **Specter**. Are our shipbuilding facilities essentially headed for elimination because of these factors?

Mr. **Shear**. Our shipbuilding industry, except for those concentrating in Navy work, is in very serious condition today. I think we have some very difficult problems because we need a mobilization shipbuilding and ship repair base to carry out all our requirements in time of emergency or war.

Senator SPECTER. For national defense, we have to have it?

Mr. SHEAR. For national defense, precisely.

Senator SPECTER. The Trible bill is an interesting bill, and I have not decided what to do about it. I have been consulted on it in the past few days, because it requires that cargo and cargo preferences be on U.S. ships moving them from 5 to 20 percent, as I understand it?

Mr. SHEAR. Yes, over a number of years.

Senator SPECTER. And in requiring that the differential in costs be made up by the savings from labor and other commodities, so that it seeks to put a system into effect which will not have higher charges on the consumer.

Mr. SHEAR. That is correct, within certain percentages.

Senator SPECTER. So in a sense, it is headed in the right direction.

Mr. SHEAR. It is headed in the right direction, except great difficulty in involving American shippers who have to bear the difference in additional pricing under cargo preferences.

Senator SPECTER. How much would they have to bear? It is supposed to be within 1 percent, is it not?

Mr. SHEAR. Cargo preferences go up by 1 percent per year, starting at 5 percent.

Senator SPECTER. So it is 5 percent of shipping would have to be on American-built ships.

Mr. SHEAR. Yes.

Senator SPECTER. What would be the increased costs to consumers, if you know.

Mr. SHEAR. It is difficult for me to give you a figure at present. I can give you some figures on what it costs to ship current cargo preferences versus what it costs us to ship in foreign ships.

Senator SPECTER. What is that?

Mr. SHEAR. Well, a typical example—this is just going on at the present time. We have just completed a contract with the Egyptians for a million tons of wheat flour, and the cargo preference laws apply to that, 50 percent of that must go on foreign ships.

A typical——

Senator SPECTER. On foreign ships?

Mr. SHEAR. On American ships, excuse me.

A typical freight rate on foreign ships today is about $45 a ton. The United States bids on these for their 50 percent share, and those rates are running from—I am going to give some approximations—from approximately $80 a ton depending on the type of ship.

Senator SPECTER. Twice as much.

Mr. SHEAR. Yes.

Senator SPECTER. So what is the answer?

MODERNIZING THE MERCHANT FLEET

Mr. SHEAR. The answer is modernizing the fleet, getting better vessels, getting smaller crew sizes, and getting reduced costs.

Senator SPECTER. But that requires buying overseas?

Mr. **Shear**. It does. There is no other way to get competitive shipping today except to buy it foreign. This is a great problem for us in the shipping industry.

Senator **Specter**. How about the answer which has been suggested in the Trible bill, which is to require that a certain percentage of American ships conditioned on reducing other costs? Is that a realistic way to go?

Mr. **Shear**. That is going to have to be examined very carefully. As I say, the administration is looking at that position now.

One of the things that must be evaluated carefully is what it is going to cost the American shipper.

Senator **Specter**. Well, I agree with you. That is the question.

Admiral, we have some more questions to be submitted to you for the record. I very much appreciate the opportunity to hear your testimony and to learn something about this issue. One of the difficulties that we have in the Congress is that we have to make judgments on a lot of very complicated questions in very brief periods of time, and your testimony has been very helpful to me in giving me some familiarization on the subject. So thank you very much.

Mr. **Shear**. Thank you, sir.

Senator **Specter**. Thank you. What is your background?

Mr. **Shear**. I am a full-time Navy man. I retired 3 years ago after 40-odd years in the Navy.

Senator **Specter**. Did you retire sort of?

Mr. **Shear**. Sort of.

SUBMITTED QUESTIONS

Senator **Specter**. The committee will have additional questions, which we will ask you to answer for the record.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR LAXALT

ODS Carry-over

Why is there a carry-over of $38.4 million in operating-differential subsidies from FY 1983 to FY 1984?

The volume of ship operations during 1982 and 1983 has been less than estimated in last year's request. This enables MARAD to carry over funds into 1984 and reduce our 1984 appropriation request. Total outlay estimates in 1984 have been reduced by $22 million from the $454 million level appropriated for 1983. This amount, plus a carry-over from 1982 to 1983 of $16.4 million causes an estimated carry-over of $38.4 million into 1984.

Status of C-6 Vessels

Last year, this Committee provided $25 million for the purchase of three C-6 vessels for the National Defense Reserve Fleet. What is the status of that purchase?

Trade-in of three C-6 vessels by American President Lines was agreed on at an estimated cost including lay-up expenses of $21 million, and one C-6 vessel has been accepted into the fleet. MARAD has not yet acquired the remaining two C-6 container vessels because an alternative proposal is being considered. While details have not been completely worked out, it appears that the alternative proposal will enable MARAD to acquire more vessels at less cost. A reprogramming request will be forwarded for Congressional approval of this alternative proposal once it is finalized.

Status of Schoolship Search

Funds were also provided last year for the replacement or restoration of the Massachusetts Maritime Academy's training ship, BAY STATE. What action has been taken in this regard?

We are currently looking for a suitable replacement. We have so far not found a replacement within the U.S. fleet, and have broadened our search to the world market. We have found a candidate, the Norwegian ship ILMATAR, which is a modern diesel powered ship. We are in the process of conducting a detailed examination of the ship and hope to complete our review in not more than a month. In addition, we are continuing the search for additional replacement candidates.

Arctic Shipping Program

~~The Mar~~itime Administration proposes to eliminate the Arctic Shipping program, part of the Research and Development appropriation, for a savings of $4.7 million. What have we learned from this program since it was begun in 1978?

FY 1983 marks the fifth year that MARAD has co-sponsored trafficability tests in the western Arctic along with the U.S. Coast Guard (USCG), the Interagency Ship Structuring Committee, the State of Alaska, the Canadian Ministry of Transport, twelve U.S. oil companies and one U.S. shipyard. During these five years, data has been collected regarding ice conditions and ship performance requirements along prospective routes Arctic tankers would be operating. The 1983 project, as funded, will complete this phase of data collection. The following briefly outlines the five-year program:

Fiscal Year	Primary Objective	MARAD Cost ($000)
1979	Demonstrate feasibility of winter operations in Bering Sea	$84
1980	Profile South Bering Sea ice conditions	110
1981	Demonstrate feasibility of winter transit in the Chukchi Sea	236
1982	Develop design criteria for ship propulsion in Bering and Chukchi Seas	215
1983	Develop design criteria for hull structure in Bering and Chukchi Seas	4,700 1/

1/ Funding shifted to MARAD to reimburse the USCG for operations of the icebreaker.

We believe that the data gathered indicates that year-round Arctic tanker operations can be established.

Sufficiency of Funds for Four Schoolships

In the budget justification, it is stated that you are studying a plan under which five of the Maritime Academies would share three ships. Does the FY 1984 request allow for the continued operation of the four existing ships?

Yes, the budget provides sufficient funds for the maintenance and repair of the four existing ships. $7.5 million is requested for this purpose, which is the same amount as was appropriated for five ships in FY 1983. I believe that the increase in the amount that will be available for each ship will adequately account for cost escalation. In addition, with the permission of this committee, we have reprogrammed an extra $1.7 million into the ship maintenance account in FY 1983 to facilitate the accomplishment of some backlogged repair items.

Funds to the Federal Maritime Academy

Please provide the Committee with a breakdown of funds being provided to the Federal Maritime Academy.

Funds have been requested in the FY 1984 budget for the Merchant Marine Academy for the following activities:

	Amount ($000)
Midshipmen costs	$3,930
Instructional program	6,023
Maintenance, repair and operating requirements	6,024
Modernization program	1,700
Program direction and administration	2,589
TOTAL, Merchant Marine Academy	20,266

Federal Ship Financing Fund Commitments

A limitation of $900,000,000 is proposed for commitments of the Federal ship financing fund. What is the annual default rate of loans secured under the fund? What is the percentage and total number of loans in liquidation and delinquent? Does the Maritime Administration have the flexibility to set the guarantees level for individual loans? What is the current level for most loans?

There is no annual default rate. Since the program's inception in 1938, there have been only 15 defaults.

MARAD currently has Title XI contracts in force for over 400 companies. Of this total, only three could be considered "in liquidation." These three represent defaulted loans under which MARAD will finalize returns on collateral. With respect to delinquent loans, the borrower has a 30-day grace period to make payment on its guaranteed loan. Once this period expires the loan is in default and MARAD is required to fulfill its obligation under its guarantee. Therefore, delinquent loans effectively do not exist under the program beyond the 30-day period.

The guarantee level for individual loans is set within limits by section 1104 of the Merchant Marine Act of 1936, as amended. This section sets the loan guarantee level at 75 percent or 87 1/2 percent of a vessel's actual cost depending on the vessel type. Recent policy has limited the maximum guarantee to 75 percent of the vessel's actual cost for all vessel types.

Fuel

A request is being made of the Committee to provide $3 million for fuel for state maritime academy ships. How does this compare with the fuel use of the ships this year and in prior years?

The Maritime Administration does not regularly collect data on the use of fuel consumed by the state marine school training ships as this is not a Federally supported cost. Data is available for FY 1980 and FY 1981 since Congress provided funds for offsetting fuel costs. In 1980, the schools used 55,145 barrels of fuel on training cruises and 63,749 barrels in 1981. However, the ships conducted their cruises at reduced speeds in order to conserve fuel due to its high cost at that time. In 1983, it is estimated that the schools could use 75,500 barrels of fuel for their cruises at an estimated cost of $2.0 million at March 31, 1983 prices.

SUBCOMMITTEE RECESS

[Whereupon, at 12:10 p.m., Wednesday, April 20, the subcommittee was recessed to reconvene at the call of the Chair.]

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1984

WEDNESDAY, APRIL 20, 1983

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 2:02 p.m., in room S–146, the Capitol, Hon. Arlen Specter presiding.

Present: Senator Specter.

NONDEPARTMENTAL WITNESSES

OPENING STATEMENT OF SENATOR SPECTER

Senator SPECTER. The hearing will come to order, please.

We are going to proceed on a rather tight timetable because we have a very crowded agenda and beyond our agenda, a schedule has been established for a vote at 2:30; and beyond that, I am going to offer an amendment to the reciprocity bill which may further complicate the schedule.

So I wanted to give you advance notice. But I want to move as promptly as we can. We are deviating from the assigned schedule for just a few moments to hear from Mr. Benjamin Lerner who is head of the Legal Services Corporation in Philadelphia and president-elect of the National Legal Aid and Defender Association.

We are deviating because of some special obligations which Mr. Lerner has. He has had a very distinguished career in a very distinguished organization in the city of Philadelphia with the National Legal Aid and Defender Association, an organization for which I volunteered in March of 1958 away from a big firm law practice which led me into the area of chicanery or politics or politics and chicanery and developed an appetite that has taken me from the practice of law to devious undertakings like becoming a U.S. attorney and a U.S. Senator.

NATIONAL LEGAL AID AND DEFENDER ASSOCIATION

STATEMENT OF BENJAMIN LERNER, PRESIDENT-ELECT, NATIONAL LEGAL AID AND DEFENDER ASSOCIATION ON BEHALF OF THE LEGAL SERVICES CORPORATION

SUPPORT FOR LEGAL SERVICES CORPORATION BUDGET

Senator SPECTER. We welcome you here. You have had a distinguished career.

Mr. LERNER. Thank you very much, Senator. I appreciate the remarks, and I very much appreciate the opportunity to appear before you on behalf of the National Legal Aid and Defender Association in support of the fiscal year 1984 appropriation for the Legal Services Corporation.

As you know, sir, the National Legal Aid and Defender Association, which was organized in 1911 and is composed of over 2,800 legal services and public defender offices throughout the country, is the only private, nonprofit organization in this country which devotes all of its resources to the support and development of high quality legal services for poor people.

We are here to respectfully request that Congress appropriate the sum of $296 million for the Legal Services Corporation in fiscal year 1984.

We realize that the Corporation's present leadership had requested a smaller appropriation, an appropriation of $257 million, and we certainly would respectfully urge Congress not to consider a smaller appropriation than that.

Nevertheless, for reasons which I will summarize briefly, NLADA's position is that an appropriation of $296 million is the minimum amount necessary to meet the needs for legal services of our Nation's poor people and to prevent even further deterioration in the availability and quality of those legal services.

I note, sir, that you and the subcommittee are well aware of the 25-percent cut sustained over the last 2 fiscal years by the Legal Services Corporation and by the field programs which you——

BUDGET REQUEST

Senator SPECTER. What figure do you want, $296 million?

Mr. LERNER. $296 million.

Senator SPECTER. Is that the administration request, or is there another figure?

Mr. LERNER. The Legal Services Corporation request is $257 million.

Senator SPECTER. What is the difference, essentially, between the two requests?

Mr. LERNER. The difference in terms of dollars, of course, is just under $29 million.

Senator SPECTER. I know how to do the arithmetic. What do you want to do that they don't want to do?

Mr. LERNER. The purpose for that, however, is to enable the Corporation to make up what it has lost in terms of the minimum access program established in 1976 by the Corporation.

That program was defined as providing sufficient legal services lawyers to provide a minimum of two lawyers throughout the country for every 10,000 persons at or below the poverty level.

With Congress support in previous years, by the end of 1980, the Corporation and its programs had made great strides in establishing minimum access, and it really is minimum access to talk in terms of two lawyers for every 10,000 poor people. But it was a lot better than we had been doing before.

However, the cuts in the last 2 years have created a situation where even that level has not been able to be maintained.

During the last year, over 1,500 attorneys had to leave the legal services program.

Senator SPECTER. How many are there, total?

Mr. LERNER. There are—I don't think I have that figure nationwide.

However, I can give you an example locally which I think you are familiar with. In Philadelphia, our fourth largest city, the legal services program had 98 lawyers 2 years ago.

Now it has 44. Over 6,000 people last year, 6,000 eligible clients had to be turned away from the community legal services program simply because——

REDUCTION IN FISCAL YEAR 1982 BUDGET

Senator SPECTER. Why so many? My recollection is that the figures proposed by Carter for fiscal year 1982 was about $360 million, and after a lot of hassle, we came up to $241 million in fiscal year 1982.

Why did that occasion a 50-percent cut?

Mr. LERNER. I think there are two reasons: One is strictly financial, and it involves not only the Federal funds, but also the State funds. My experience as a member of the LSC Board has been that as Federal support is reduced, State support, rather than being increased to make up all or part of that gap, is reduced.

The legal services—civil legal services is not, obviously, the most popular program in Harrisburg, to use the State which I am most familiar with.

And there is a feeling, I think, that as the Federal commitment is reduced, the State commitment can also be reduced.

The other part of the problem has to do with the economic situation in Pennsylvania and around the country, especially in the Northeast, and that is simply that there are a growing number of poor people who need these services. So there is almost a geometrical effect, it seems to me, for every dollar.

It is, I think, clear from the history of the Corporation that contrary to what some of the Corporation's opponents say, the Legal Services Corporation has been using the money that the Federal Government has been appropriating and that has been appropriated by the State governments in a very effective and cost-conscious way.

In 1982, over 95, almost 96 percent of the $241 million Federal appropriation was used for direct legal assistance. Only 2.1 percent was spent for management and administration and another 2.1 percent for field monitoring and evaluation.

Moreover, the Legal Services Corporation's program of providing for local direction through local boards and directors and a local setting of priorities has resulted overwhelmingly in those priorities being set so that program funds are expended to represent individual poor people and the kinds of problems such as housing, domestic matters, welfare matters, which critically affect the everyday lives of poor people.

Senator **Specter**. Mr. Lerner, the red light has been on for awhile. Let me ask you one question: That is, are you satisfied with the compromise which has been reached as to changes in what LSC does vis-a-vis class actions and governmental initiatives or initiatives against governmental units?

Mr. **Lerner**. Frankly, on behalf of NLADA, the answer to that would have to be not really. I think that——

Senator **Specter**. Do you think it represents a reasonable compromise given the sentiments of so many to zero out the program in 1982?

Mr. **Lerner**. I think that certainly, the restrictions are preferable to zeroing out the program.

But I have serious problems with saying that there will be a blanket prohibition against class actions; a blanket prohibition against any legislative activity, even at the request of the clients, because I think that we live in an environment where that is part of the kinds of legal services that poor people need.

In fact, there are situations where an appropriate class action, brought under careful management by a board of directors which represents the community, can do more for more poor people expending less resources than the bringing of 2,000 or 3,000 individual lawsuits.

Senator **Specter**. Mr. Lerner, I would be interested in a supplemental answer on that when you have an occasion to do so.

When we considered the matter of the 1981 or the 1982 funding, that was the critical issue. There were many who wanted to zero out the program, and there was a compromise at $100 million. Many of us fought to bring it to the $241 million level at that time.

There were many very farsighted and progressive practitioners who took the position that the limitations were representing a good compromise, but it may be that we should revisit that subject.

I would be interested in the views of your association, your views, and the views of any others on that subject. If you would communicate with us by letter, that would be very helpful. I wish we could talk further, but we are going to be cutting into somebody else's time if we continue to go on.

PREPARED STATEMENT

Mr. **Lerner**. I appreciate very much your talking with me, and I would like to leave you a copy of my statement.

Senator **Specter**. It will be incorporated in the record in full.

Mr. **Lerner**. Thank you.

[The statement follows:]

PREPARED STATEMENT OF BENJAMIN LERNER

PRESIDENT-ELECT

NATIONAL LEGAL AID & DEFENDER ASSOCIATION

Mr. Chairman and members of the Subcommittee: My name is Benjamin Lerner, and I am President-Elect of the National Legal Aid and Defender Association (NLADA), and Chief Defender of the Defender Association of Philadelphia.

The National Legal Aid and Defender Association is the only private, non-profit organization devoting all its resources to the support and development of quality legal assistance to poor people. The Association was organized in 1911, and NLADA's membership today includes approximately 2,800 legal services and public defender offices across the United States. NLADA combines the efforts of members of the private bar with those of professional legal services attorneys to provide equal access to justice for poor persons.

NLADA is requesting that Congress appropriate $296 million for the Legal Services Corporation in fiscal year 1984. We realize that the present LSC leadership has requested $257 million for fiscal year 1984, and we strongly urge Congess not to consider a smaller appropriation. However, for the reasons stated below, NLADA aserts that an appropriation of $296 million is the minimum amount necessary to meet the real legal services needs of our nation's poor and to prevent further deterioration in the availability and quality of these services.

This Subcommittee is well aware of the 25% cut sustained in fiscal years 1982 and 1983 by the Legal Services Corporation and the field programs which it funds. These deep cuts have caused drastic shortages in services to eligible clients. During 1981 and 1982, approximately 24% of all field offices (354 offices) were closed.[1] Over 4,000 field staff employees had to leave

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Footnotes at end of statement.

legal services (26%) as well as 1,546 attorneys (24% of field attorneys).[2] In Philadelphia alone, the local legal services program has been reduced from 98 to 44 lawyers, and 6,000 eligible poor people with legal problems had to be turned away last year.[3]

All of this has occurred at a time when the demand for services has escalated and the number of poor persons has increased. The expanded demand for legal assistance for problems that accompany poverty has greatly reduced the ability of the local programs to meet the needs of eligible clients. As the Philadelphia experience illustrates, people are being turned away by legal services programs because of diminished resources and smaller staffs.

We believe that funding below the $296 million level for the Legal Services Corporation will translate directly into additional cuts in essential services -- services which Congress consistently has expressed its determination to make available since it established the Legal Services Corporation in 1974 in order to insure equal access to our nation's system of justice for those unable otherwise to afford legal counsel.

To effectuate this Congressional intent, the Corporation, in 1976, adopted its policy of "minimum access," which it defines as two attorneys for every 10,000 persons at or below the poverty line. At the end of fiscal year 1980, legal services programs supported by the Corporation had expanded to every area of the country pursuant to the minimum access plan. Now, however, cuts in the Corporation's budget and nationwide economic problems have forced the Corporation to retreat from minimum access to the point where it is no longer able to provide the equivalent of two attorneys for every 10,000 poor persons in the nation.[4] NLADA's request for an appropriation level of $296 million would permit a partial restoration of minimum access funding to legal services programs as well as provide a cost-of-living adjustment and an increase in direct delivery of legal services to eligible clients.

NLADA continues to assert that the legal services programs funded by the Corporation deliver to the poor the high-quality, essential legal services intended by Congress. These services, usually in the form of individual representation in routine cases, are essential to protecting the basic legal rights of poor persons.

Moreover, the Legal Services Corporatin has a history of economical and cost-conscious administration which squeezes the maximum in direct delivery of services out of every dollar appropriated by Congress.

In 1982, 95.8% of the $241 million appropriation was used for direct legal assistance, while only 2.1% was expended for central management and administration and 2.1% was allocated to field monitoring and evaluation.[5]

Programs are organized, operated and controlled at the local level and meet priorities set according to the needs of the local communities. These priorities overwhelmingly favor expending legal services resources for representation of individual clients in the types of cases which have a critical impact in their daily lives. In 1982, legal services attorneys closed 1,141,481 cases nationwide.[6] The majority of these cases were in the categories of domestic relations, housing and income maintenance. More than one-third of all cases in 1982 were closed after simply providing the client with advice, while another 16% consisted of brief services such as a letter or a phone call to resolve a client's problem.[7]

These facts demonstrate that the Legal Services Corporation's performance as an independent, federally-funded program, which in turn, directly funds locally managed programs, has provided the most effective and efficient means of delivering essential legal services to poor persons. We recognize that pro bono, judicare and other proposals (such as the new initiatives of LSC towards further advancement of the Interest on Lawyers Trust Account Program (IOLTA)) to generate funds from the private sector to help offset recent cutbacks in federal funding for legal services are important adjuncts to the program. We support such efforts to supplement the delivery of services. However, they are, by themselves, inadequate to meet the enormous need for legal services for poor people. As pointed out earlier, programs have been forced to restructure priorities, restrict intake of new cases, eliminate services and turn away eligible clients. Certain types of cases are singled out for exclusion simply because there are insufficient resources and staff rather than on the merits of the claims of eligible clients. The overall effect is to deny poor people legal remedies available to others and to restrict the scope of legal assistance for those least able to obtain it elsewhere.[8]

The simple fact remains that these pressing needs for legal services by poor persons cannot begin to be met by the private bar. State and local governments are also unable to meet this need, given the competing demands for social services at the local level. It is, therefore, incumbent upon the federal government to be the primary source of funds for legal services to poor individuals. Without such federal support, poor people will be cut off from access to our legal system in ever increasing numbers.

As a matter of principle, NLADA opposes any limitations on the representation of eligible clients by staff attorneys and hopes that this Subcommittee will oppose efforts to restrict representation of eligible clients. Poor people should have access to legal forums, and local legal services programs should establish priorities for the allocation of monies to their programs based on local needs. In the past, the appropriations legislation has contained riders which prohibit legal services programs from undertaking any activity on behalf of particular classes of persons. These restrictions are inconsistent with the Corporation's mandate to provide equal access to our system of justice for persons unable to afford an attorney.

On the other hand, NLADA supports the continuation of two restrictions attached to the Second Continuing Resolution, P.L. 97-377, passed in December, 1982. The proviso concerning the funding in 1983 of grantees at the 1982 annualized level unless and until action is taken by a confirmed Board should be continued. Likewise, the prohibition against compensation of LSC directors for services to the Corporation other than attendance at meetings should be continued. These restrictions are necessary until such time that this Subcommittee and the Congress has confidence in the commitment of the LSC Board of Directors and its management to an unfettered, high-quality, federally-funded legal services program to poor people of our nation.

The Legal Services Corporation is the best answer to the needs for high-quality legal assistance by poor people. It must be permitted, indeed required, to continue to fulfill this role. If, as a nation, we are serius about providing legal services to our low-income citizens, we must fund LSC at adequate levels.

NLADA urges your support for a fiscal year 1984 appropriation to the Legal Services Corporation in the amount of $296 million. I would be happy to answer any questions that Subcommittee members might care to pose. Thank you for the opportunity to present our views.

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[1] "Characteristics of Field Programs Supported by the Legal Services Corporation Start of 1983 - A Fact Book," at p. 2

[2] Id.

[3] Philadelphia Inquirer, p. 6-A, March 24, 1983.

[4] The Legal Services Corporation presently estimates that minimum access is 1.76 attorneys per 10,000 persons at or below the poverty line. Donald Bogard, President of LSC, testifying before the Senate Appropriations Subcommittee on State, Justice, and Commerce, the Judiciary and Related Agencies. March 24, 1983.

[5] "Characteristics of Field Programs Supported by the Legal Services Corporation Start of 1983 - A Fact Book," at p. 2

[6] Id. at 9.

[7] Id. at 11.

[8] Loren Siegel and David Landau, "No Justice for the Poor - How Cutbacks are Destroying Legal Services." American Civil Liberties Union Public Policy Report, March, 1983.

AMERICAN UNIVERSITY

STATEMENT OF DR. RICHARD BERENDZEN, PRESIDENT, AMERICAN UNIVERSITY

USIA EDUCATIONAL AND CULTURAL AFFAIRS PROGRAM

Senator **SPECTER**. I would like to call Dr. Richard Berendzen, president of the American University.

Welcome, welcome. Your full statement will be made a part of the record, and you may proceed with your time, as little as it is.

Mr. **BERENDZEN**. I am very grateful for the opportunity to share the views of the higher education community, particularly a large number of higher education associations, regarding the importance of increased funding for the educational and cultural affairs program of the USIA.

The Congress as a whole, this subcommittee, and its counterpart in the House has been instrumental in the past 3 years in according stable levels of funding to the essential academic and exchange programs within USIA. Our simple message today is simply to urge your support for responsible increases for the level of funding in these programs.

While we are interested in all of them within USIA, we are principally concerned today with respect to the Fulbright program.

Nearly 40 years ago, the United States embarked upon what remains today perhaps the most ambitious governmental exchange program ever devised. Initially proposed and sponsored by Senator Fulbright, the legislation which now bears his name and, of course, has been providing not only important programs to the United States but to foreign countries, as well.

LEGISLATIVE AND STRUCTURAL CHANGES OF PROGRAM

Numerous legislative and structural changes have occurred over the years, culminating in two significant developments: In 1961, the many pieces of legislation affecting educational exchange were consolidated into the Fulbright-Hays Act, which broadened the scope of the program, gave it new flexibility, and assured it of dollars, as well as foreign currencies, and authorized the receipt of other Government contributions.

In 1978, the administrative stewardship for the program was transferred from the Department of State to the USIA.

Through all these various evolutions, the Fulbright program has remained a highly respected scholarly exchange program encompassing a wide array of successfully proven activities.

You are familiar, I am sure—and in the short time, I won't explain and go further into the success of that program.

However, the health of the program has been called into serious question during the last decade. The program has been expanded geographically and several innovations have been implemented, but they have not been accompanied by corresponding increases in financial support.

Today, after adjusting for inflation, the program operates at only 60 percent of the funding levels achieved 15 years ago. As our own expenditures for educational exchange programs have eroded, our allies and adversaries, on the other hand, have accelerated their own efforts.

Just to give a few illustrations of this, the United States now ranks sixth in the world behind France, West Germany, Britain, Japan, and the Soviet Union in terms of the percentage of the national budget allocated to exchanges.

For the period of 1976–81, West Germany, for example, increased its real expenditures for these activities by some $150 million; Japan with $60 million; Britain by $11 million while in real dollar terms, the U.S. expenditures during this period went down $50 million.

FISCAL YEAR 1980 PROGRAM EXPENDITURES

In fiscal year 1980, the United States spent some $600 million to sponsor more than 58,000 grantees on scientific, military, educational, and cultural exchange programs. Of that amount, however, military training grants accounted for 16 percent of the total costs. By contrast, academic exchanges accounted for 5 percent of the total costs.

With respect to the Fulbright program, per se, the relative U.S. contribution to program costs has decreased in recent years due to declining revenues. For example, in 1980, the West German Government paid 77 percent of the $5.3 million required to support German-American Fulbright exchanges.

In regions that are among the most sensitive and important to U.S. national security interests, comparisons between United States and the Soviet bloc countries are startling: for 1980–81, the Soviet bloc grants to sub-Saharan Africans amounted to 26,000 people, while USIA and AID grants combined totaled 1,398; Soviet bloc grants were available to 40 of the 44 sub-Saharan African nations, while USIA's amounted to only 18; USIA sponsored 12 Kenyan students, and AID 98, while the Soviet bloc countries sponsored 805 Kenyan students. In Rwanda and Congo, there are no U.S. Government sponsored students, while the Soviet bloc supports some 1,650 of them.

In India, Soviet bloc countries funded 1,140 students compared with 7 funded by the United States; and in El Salvador, there were 105 Soviet bloc grants compared with 18 offered by the United States of America.

In their 1982 annual report on USIA programs to the Congress and to the President, the U.S. Advisory Commission on Public Diplomacy observed:

> The Commission is deeply concerned by the reduction that has taken place over the last several years in the resources provided for public diplomacy. The decline has been most acute in U.S. government educational exchange and international visitors programs, but the problem affects all aspects of the Agency's educational and cultural affairs activities.

The higher education community concurs in this assessment, and we urge this committee to reverse the erosion of this Nation's premier academic exchange programs. In its 1979 report, the President's Commission on Foreign Language and International Studies recommended a doubling of funding levels for exchange programs.

More recently, the fiscal year 1982 and 1982 Department of State Authorization Act established the goal that exchange-of-persons activities should be:

> * * * increased through regular annual increases so that by the fiscal year 1986 the amount obligated for such grants is at least double in terms of constant dollars the amount obligated for such grants for the fiscal year 1982.

Senator **Specter**. Is there any program besides the Fulbright program which comes near that priority level?

Mr. **Berendzen**. As a matter of fact, there is not. Using those targets as a guide, the administration's fiscal year 1984 request of $72.5 million for Fulbright plus international visitors programs falls short by some $24 million. And moreover, the Fulbright program itself in 1984 has been decreased by some $2 million from the fiscal year 1983 amount.

Senator **Specter**. So it is about $98 million?

Mr. **Berendzen**. That is exactly right.

Senator **Specter**. Thank you very much.

Mr. **Berendzen**. Thank you.

Senator **Specter**. I appreciate you being with us.

[The statement of Dr. Richard Berendzen follows:]

PREPARED STATEMENT OF DR. RICHARD BERENDZEN
PRESIDENT
THE AMERICAN UNIVERSITY

Mr. Chairman and members of the Subcommittee, I am grateful for the opportunity to share with you the views of the higher education community regarding the importance of increased funding for the educational and cultural affairs programs of the United States Information Agency (USIA.)

The Congress as a whole -- this subcommittee in particular, and its counterpart in the House -- has been instrumental in the past three years in according stable levels of funding to the essential academic exchange programs within USIA. Our simple message is to once again urge your support for responsible increases in the levels of funding for these programs. While we are interested in all USIA cultural exchanges, this statement principally will speak to the Fulbright Program.

Nearly forty years ago, the United States embarked upon what remains today perhaps the most ambitious governmental exchange program ever devised. Initially proposed and sponsored by Senator J. William Fulbright, the legislation which now bears his name authorized the Secretary of State to use proceeds from the sale of surplus war property outside the United States to finance the exchange of students, teachers, and professors. In addition to the motivating idea that mutual knowledge and understanding could reduce the possibility of war, scholars and scientists throughout the world sought to renew contacts that had been disrupted during World War II; further, the exchange program was regarded as one method by which the United States could reaffirm its intent to move beyond its traditional policy of isolation.

Numerous legislative and structural changes have occured over the years, culminating in two significant developments. In 1961, the many pieces of legislation affecting educational exchange were consolidated into the Fulbright-Hays Act, which broadened the scope of the Program, gave it new flexibility, assured it of dollars as well as foreign currencies, and authorized the receipt of other government contributions. In 1978, the administrative stewardship for the program was transferred from the Department of State to USIA. Through all these various evolutions, the Fulbright Program has remained a highly respected scholarly exchange program encompassing a wide array of successfully proven activities. It has been described, in the words of one don at Oxford, as the biggest, most significant movement of scholars across the face of the earth since the fall of Constantinople. And in the words of another observer, as "the flagship of our professional exchange programs ... (the) health and vitality (of which) will set the standards for all others."

However, the health of the program has been called into serious question in the last decade. The program has been expanded geographically and several innovations have been implemented, but they have not been accompanied by corresponding increases in financial support. Today, after adjusting for inflation, the program operates at only 60 percent of funding levels achieved fifteen years ago. As our own expenditures for educational exchange programs have eroded, our allies and adversaries have accelerated their own efforts.

The following facts are illustrative:

- The United States ranks sixth in the world, behind France, West Germany, Britain, Japan and the Soviet Union, in terms of the percentage of the national budget allocated to exchanges.
- For the period 1976-81, West Germany increased its real expenditures for these activities by $150 million, Japan $60 million, and Britain $11 million, while in real dollars terms American expenditures for this period were reduced by $59 million.
- In fiscal year 1980, the U.S. spent some $600 million to sponsor more than 58,000 grantees on scientific, military, educational, and cultural exchange programs. Of this amount, military training grants accounted for 16.5 percent of the total U.S. government grants and 61.4 percent of the total costs. By contrast, academic exchanges accounted for less than 6 percent of the total number and 5 percent of the total cost.
- With respect to the Fulbright Program, the relative U.S. contribution to program costs has decreased in recent years due to declining revenues. For example, in 1980, the West German government paid 77 percent of the $4.3 million required to support German-American Fulbright exchanges.

- o In regions that are among the most sensitive and important to U.S. national security interests, comparisons between U.S. and the Soviet Bloc countries are revealing: for 1980-81, Soviet Bloc grants to Sub-Saharan Africans amounted to 26,995, while USIA and AID combined grants totalled 1,398; Soviet Bloc grants were available to 40 of the 44 Sub-Saharan African nations, while USIA's were limited to 18 of the 44; USIA sponsored 12 Kenyan students and AID 87, while the Soviet Bloc funded 805 Kenyans; Francophone Rwanda and Congo have no U.S. government-sponsored students, while the Soviet Bloc supports 1,650; in India, Soviet Bloc countries funded 1,140 students to 7 funded by the United States; and, in El Salvador, there were 105 Soviet Bloc grants as compared to 18 offered by the U.S.

In their 1982 annual report on USIA programs to the Congress and to the President, the U.S. Advisory Commission on Public Diplomacy observed: "The Commission is deeply concerned by the reduction that has taken place over the last several years in the resources provided for public diplomacy. The decline has been most acute in U.S. government educational exchange and international visitors programs, but the problem affects all aspects of the Agency's educational and cultural affairs activities."

Mr. Chairman, the higher education community concurs with this assessment, and we urge this committee to reverse the erosion in this nation's premier academic exchange programs. In its 1979 report, the President's Commission on Foreign Language and International Studies recommended a doubling of funding levels for exchange programs. More recently, the FY 82 and 83 Department of State Authorization Act, P.L. 97-241, Sec. 305(c) established the goal that exchange-of-persons activities should be "increased, through regular annual increases, so that by the fiscal year 1986 the amount obligated for such grants is at least double (in terms of constant dollars) the amount obligated for such grants for the fiscal year 1982." While we recognize that this committee alone has responsibility for funding decisions, we feel that the authorizing committee has provided responsible objectives.

Using those targets as a guide, the Administration's FY 84 request of $72.583 million for Fulbright and International Visitors Programs falls short by more than $24 million. Further, we are deeply concerned that the FY 84 request for the Fulbright Program actually has been decreased by nearly $2 million from the FY 83 Continuing Resolution level -- from $51.246 million to $49.250 million. To meet the target of roughly $97 million for these two programs, funding for the Fulbright Program would need to be increased by approximately $13 million, and for the International Visitors Program by $6 million. Finally, the Humphrey Fellowship Program would require an increase of approximately $1.4 million to achieve its target level $3.7 million.

To conclude, we recognize the prerogative of this committee to designate appropriate funding levels. While rapid achievment of a doubling in funding for exchange programs may not be feasible, we urge you to assure continued progress toward this goal. We believe that USIA's academic exchange programs represent the most effective means for promoting strong foreign policy, strengthening economic ties, and achieving true international understanding.

CONSORTIUM FOR INTERNATIONAL CITIZEN EXCHANGE

STATEMENT OF BENJAMIN MILK, EXECUTIVE VICE PRESIDENT, YOUTH FOR UNDERSTANDING, REPRESENTING THE CONSORTIUM FOR INTERNATIONAL CITIZEN EXCHANGE

DESCRIPTION OF CONSORTIUM

Senator **SPECTER.** I would like to now move on to Mr. Benjamin Milk, executive vice president, Youth for Understanding, representing the Consortium for International Citizen Exchange.

Welcome, Mr. Milk. Your full statement will be made a part of the record. You may proceed with your time as you see fit.

Mr. **MILK.** Thank you, Mr. Chairman. I am appearing before this distinguished subcommittee today on behalf of John Richardson, chairman of the Consortium for International Citizen Exchange.

The consortium, which was organized in 1980, is comprised of the chief executive officers of eight major nonprofit, volunteer-based citizen exchange organizations: AFS International/Intercultural Programs; the Experiment in International Living; the Friendship Force; National Council for International Visitors; Partners of the Americas; People to People; Sister Cities; and Youth for Understanding.

I am currently executive vice president of Youth for Understanding. Prior to assuming this responsibility, I was Executive Director of the Securities and Exchange Commission, and I also had the pleasure of appearing before this committee at that time.

My purpose in being here this afternoon is to comment, from the perspective of the consortium, on the fiscal year 1984 budget request of the USIA.

In view of the fact that I am here advocating support for increased funding of USIA, it may be pertinent to note that my father is not now nor has he ever worked for the Federal Government.

PROGRAM ASPECTS

Specifically, I would like to discuss two aspects of the education and cultural affairs program offered by USIA. The first has to do with the President's International Youth Exchange Initiative, and the second addresses the continuing need to assure a major increase in USIA support for exchanges overall in the next several years.

Before I elaborate on these points, I would like to make note of the collective effort of the eight organizations which comprise the consortium.

As of 1982, they operated in 50 States and the District of Columbia; managed some 100,000 exchange-of-persons annually; carried out exchange programs involving some 5,000 American communities and 80 other countries and operated budgets aggregating over $60 million.

Judging from YFU's own experience, the exchange students themselves also generate an even larger contribution to the mission of the communities in which they stay. With their guitars, stuffed animals, hats, books, stereos, tennis rackets, and other gifts, YFU is forced to rent 55-seat passenger buses to transport each group of 40 students between airports when the exchanges are on their way home.

YOUTH EXCHANGE INITIATIVE

The first basic aspect of my testimony relates to the President's Youth Exchange Initiative. This program was launched in the spring of 1982.

Charles Wick, Director of the USIA, lent his support for the development of an imaginative effort to promote the expansion of youth exchanges with our Versailles Economic Summit Partners.

A first-rate Foreign Service officer, Sally Grooms, was assigned as Director of the newly created Youth Exchange Office. She and her staff were charged with overseeing the development of what has become known as the President's International Youth Exchange Initiative.

As a part of this Initiative, the President's Council for International Youth Exchange is established to raise funds from the private sector. The Initiative has also inspired the creation of a national public service advertising campaign on youth which will be conducted under the auspices of the Advertising Council of the United States beginning in September.

I will not go into further details about the Initiative, many of which are probably familiar to this subcommittee. But I would like to make the point that the Initiative could not have come about had it not been for the leadership of the USIA Director.

With your support today, I am confident that you will hear about steadily increasing numbers of youth exchanges in years to come as well as the contribution of these exchangees as they assume leadership positions in their areas of special interest.

In that respect, I might note that we have become aware that two of YFU's participants from last year's program have since been appointed to the service academy for next year.

CONTINUED NEED FOR INTERNATIONAL CULTURAL EXCHANGES

Despite some recent strides that have been made by USIA in support for youth exchanges, there remains an unqualified need for intent arrangements for international cultural exchanges including the barrage of programs which comprise the exchange field.

Overall U.S. support for exchanges has declined in dollars during the past 15 years, despite the fact that nearly every informed person considers exchange programs to be exceptionally valuable and as Government programs go, quite inexpensive.

I will cite a few examples drawn from the 1982 report of the U.S. Advisory Commission on Public Diplomacy: U.S. Government educational and cultural programs are presently operating in real dollar terms at 60 percent of their 1965 levels.

The number of annual international visitor grantees has dropped from almost 2,200 to less than 1,600.

The number of American Fulbright grantees has plummeted from more than 900 in 1966–67 to only 364 in 1980–81; and last the Soviet Union spends approximately seven times as much as the United States for international educational, cultural, and information activities.

The same report also notes that the strength of our country derives in large measure from the ideas it represents and that it is the task of USIA to present and explain these ideas to a sometimes skeptical world and to help insure that foreign perceptions of the United States are accurate and that misinformation and misunderstandings are corrected.

If I may, I would like to submit for the record a column entitled "U.S. Losing Battle for Exchanges," which appeared in the Washington Post and a copy of a letter to Edwin Row. It is important not to underestimate the value of exchange programs in enclosing the attitudes toward the United States in future leaders around the globe.

Senator SPECTER. Mr. Milk, I would be delighted to put those into the record, and your full statement will be put in the record, as well.

Do you have anything else?

Mr. MILK. One concluding sentence, Mr. Chairman.

It is our hope that exchange programs receive priority funding and that future reports by the U.S. Advisory Commission on Public Diplomacy will record that in 1983 Congress reaffirmed its commitment to educational and cultural exchanges with needed financial resources.

Thank you very much.

[The information follows:]

PREPARED STATEMENT OF BENJAMIN MILK
EXECUTIVE VICE PRESIDENT
YOUTH FOR UNDERSTANDING

Mr. Chairman and Members of the Subcommittee:

I am appearing before this distinguished Subcommittee today on behalf of The Consortium for International Citizen Exchange. The Consortium, which was organized in 1980, is comprised of the Chief Executive Officers of eight major citizen exchange organizations: AFS International/Intercultural Programs, The Experiment in International Living, The Friendship Force, National Council for International Visitors, Partners of the Americas, People to People International, Sister Cities International and Youth for Understanding. I am currently the Executive Vice President of Youth for Understanding. Prior to assuming this responsibility, I was the Executive Director of the United States Securities and Exchange Commission, and I also had the pleasure of appearing before this Subcommittee at that time.

My purpose in being here this afternoon is to comment, from the perspective of The Consortium, on the FY 84 budget request of the United States Information Agency. Specifically, I would like to make two points:

1. that certain kinds of exchanges have had a great boost during the past year because of The President's International Youth Exchange Initiative.
2. that, despite this progress, there remains a need to assure a major increase in USIA support for exchanges overall in the next several years. To a large degree, this increase in support will be determined by the actions of this Appropriations Subcommittee.

Consortium Background

Before I elaborate on these points, I would like to describe briefly, for the information of new Subcommittee members, the objectives of The Consortium. They are:

- to encourage the exchange of citizens among countries throughout the world for educational, cultural, professional and humanitarian purposes.
- to increase public awareness nationally, regionally and locally of the importance and impact of international adult and youth exchanges
- to increase citizen involvement in international exchange, enabling individuals to contribute their skills and talents to world understanding
- to cooperate in citizen education projects and other projects designed to achieve the purposes listed above.

As a group, the exchange organizations which comprise The Consortium possess formidable resources, which I will illustrate by citing some 1982 figures. They:

- operate in 50 states and the District of Columbia
- represent approximately 5900 units (committees, chapters, etc.)
- manage some 100,000 exchange-of-persons annually
- enlist a working volunteer constituency of one-half million persons
- carry out exchange programs between the U.S. and 80 other countries
- enable citizens to participate in exchange experiences ranging from ten days to one year
- operate budgets aggregating $60,000,000
- cause expenditures of an estimated $62,000,000 on exchange-of-persons travel
- represent 222 years of organizational experience involving some 5000 American communities

I have provided the Subcommittee with copies of the Consortium brochure which briefly describes each organization and its program.

Point No. 1

To return to the basic points of my testimony, I will clarify what I mean by No. 1 -- that the USIA has made considerable strides by virtue of the support it has given to some kinds of exchange programs. In the spring of 1982, Charles Wick, Director of USIA, lent his support, and the resources of his

Agency, to the development of an imaginative effort to promote the expansion of youth exchanges with our Versailles Economic Summit Partners — the nations of Great Britain, France, Germany, Italy, Canada and Japan. A first-rate Foreign Service Officer, Ms. Sally Grooms, was assigned as Director of a newly created Youth Exchange Office. She and her staff were charged with overseeing the development of what has become known as The President's International Youth Exchange Initiative. This Initiative now includes such elements as a President's Council for International Youth Exchange, which will raise funds from the private sector and will work on a strategy to bring youth exchange to the attention of the American public. The Initiative has also inspired the creation of a national public service advertising campaign on youth exchange which will be conducted under the auspices of the Advertising Council of the United States beginning in September 1983. In addition, USIA is currently awarding grant support to organizations throughout the United States which can mount high quality exchange programs to meet the objectives of the Initiative.

I will not go into further details about the Initiative, many of which are probably familiar to this Subcommittee, but I would like to make the point that the Initiative could not have come about had it not been for the leadership of the USIA Director. Furthermore, through the good offices of Mr. Wick, the program has benefited from the personal involvement and leadership of the President of the United States. We hope, in the months and years to come, that you will hear about steadily increasing numbers of youth exchanges with these seven Versailles countries, as well as with countries in many other parts of the world.

Point No. 2

Despite the great strides which have been made by USIA in its support for exchanges, as exemplified by the Youth Exchange Initiative, there remains, in our view, the need for the emphasis on educational and cultural exchange to be intensified, and for this emphasis to include the whole range of programs which comprise the exchange field. As professionals in intercultural relations, we are acutely conscious of the fact that overall U.S. support for exchanges has declined in constant dollars during the past fifteen years. This is true despite the fact that nearly every knowledgeable person considers exchange programs to be both exceptionally valuable and, as government programs go, quite inexpensive.

I will cite a few examples, drawn from the 1982 Report of the U.S. Advisory Commission on Public Diplomacy, which will illustrate the declining level of U.S. activity:

1. U.S. Government educational and cultural programs are presently operating in real dollar terms at 60% of their 1965 levels.
2. The number of annual International Visitor grantees has dropped from a high of 2,171 in 1978 to 1,579 in 1981.
3. The number of American Fulbright grantees has plummeted from a high of 904 in 1966-67 to 364 in 1980-81.

Last, but not least,

4. The Soviet Union spends approximately seven times as much as the United States for international educational, cultural and information activities. The United States ranks below its major European allies and Japan in the percentage of its national budget allocated to public diplomacy efforts.

The Commission also states, and I quote:

"History has repeatedly shown the power of ideas. Who can question that the strength of our country derives in large measure from the ideas it represents? It is precisely the task of (USIA) to present and explain these ideas to a sometimes skeptical world and to help ensure that foreign perceptions of the United States are accurate and that misinformation and misunderstandings are corrected. Wisely used, public diplomacy can lessen the possibility of military conflict."

Conclusion

In light of the erosion of overall U.S. investment in educational and cultural exchange, I respectfully urge this Subcommittee to do two things:

1. to support, through its appropriations process, the full budget request for educational and cultural affairs as contained in the FY 84 Budget submission of USIA.

2. to ensure that the monies provided are sufficient to support adequately all components of the educational and cultural affairs budget, including youth exchange, private sector programs, international visitor programs and academic exchanges.

It is my hope that future reports by the United States Advisory Commission on Public Diplomacy will record that, in 1983, Congress reaffirmed its verbal commitment to the Fulbright ideals of mutual educational and cultural exchanges — that in 1983, Congress backed up its supportive words with the financial resources of the United States Government.

OUTLOOK — Sunday, December 5, 1982

U.S. Losing Battle for Minds

Communists granting more scholarships for foreign students

By Madeleine G. Kalb

THE UNITED STATES may have pioneered grants for international educational exchanges as a foreign policy tool, but the Soviets and their satellites are running circles around us in this area today.

While exact figures are hard to come by, conservative State Department estimates indicate that 28,000 Third World students were in the Soviet Union and Eastern Europe in 1975. The figure climbed to 56,000 in 1979 and has reached about 63,000 today. The annual cost is conservatively estimated at $325 million.

By contrast, the total U.S. expenditure today is a mere $30 million, little of which goes to needy undergraduate students.

Neither Washington nor Moscow, of course, has entirely selfless motives in providing these scholarships.

The prestigious Fulbright awards introduced after World War II, for example, have funded graduate studies here for students from about 100 foreign nations, as well as for American students abroad. The result is that in a nation like Japan, the list of Fulbrighters reads like a virtual "Who's Who" of Japanese society — ambassadors (34, including the current Japanese envoy to Washington), university presidents, editors, scientists and business executives.

Since 1960, the Russians have been appealing to the youth of Asia and Africa and — poaching in America's traditional sphere of influence — Latin America. While children of the elite in Nigeria, India or Colombia were studying at Oxford and the University of California, promising children of the poor, from remote villages or city slums, were being wooed by Moscow's recruiters.

They were offered free tuition, room, board, transportation, medical care and a small stipend for studies that would send them home as agronomists or doctors or mining engineers. The result, Moscow hoped, would be gratitude and admiration for the Soviet system — and in some cases a more lasting attachment.

Indeed, State Department officials calculate that even if a majority of these students is turned off by the Soviet system, there is always a number — perhaps one-third — who return home committed communists.

The Russian challenge is most acute in Latin America. While the Soviets offered 400 grants a year there in the 1960s, the number jumped to more than 5,000 by 1980. The U.S. effort in the region that year? A total of 781 scholarships, with most of them renewals of existing grants.

As one discouraged official explains, it is no longer possible to make public announcements of Fulbright scholarships in Latin America. "It would simply be too embarrassing. What could we do if hundreds of people applied and then we were forced to say that there were only two or three scholarships available?"

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The problem is not merely one of numbers. Moscow is appealing to an audience — needy undergraduates — that we, with relatively few exceptions, ignore.

The Fulbrights go to graduate students. Grants from the Agency for

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Madeleine Kalb is the author of "The Congo Cables: The Cold War in Africa from Eisenhower to Kennedy."

International Development help technicians who have spent years working for their own governments. Even the new program in honor of the late Hubert Humphrey is aimed at mid-career professionals who are brought here for a year.

Opponents of increased scholarships for undergraduates point out, quite accurately, that there are far more foreign students here than in the Soviet Union. At last count, there were more than 300,000 here, two-thirds undergraduates, 80 percent from the Third World.

But they come, increasingly, from comparatively wealthy countries — 100,000 from OPEC nations alone. And even among those from poorer lands, the vast majority are from well-to-do families.

As Rep. Paul Simon (D-Ill.), chairman of the House subcommittee on postsecondary education, recently argued, "The masses on whom the future rests, and who do not know the United States as their wealthy cousins do, are the ones who need the education. Will we offer it, or will we default to the Soviets?"

In current budget circumstances, nobody can expect a burst of funding for such scholarships. But a modest amendment has been attached to the president's Caribbean Basin Initiative, and hopefully it will not disappear in Congress' lame-duck session.

Introduced by Rep. Michael Barnes (D-Md.), the amendment would earmark $7.5 million for scholarships for undergraduates from Central America and the Caribbean — enough to allow 375 students to spend just two years at American colleges and universities.

While Congress has approved the Caribbean Basin funds, the House and Senate have not agreed on the details of the scholarship program. The problem is that the provision might well get lost in the haste of the current session, in which case the scholarship funds would be lost, lumped in with other AID projects in Latin America.

If this program becomes a reality in Central America, it could set a pattern for a worldwide program of undergraduate scholarships, at least as budget circumstances permit. That is no small matter, particularly to those who believe that the battle for the mind is critical to America's position and interests in the world.

The Washington Post
AN INDEPENDENT NEWSPAPER

Thursday, December 23, 1982

LETTERS TO THE EDITOR

Expanding the Youth Exchange

Madeleine Kalb's article "U.S. Losing Battle of Minds" [Outlook, Dec. 5], calls attention to a barely perceptible but serious threat to U.S. leadership in the free world. Specifically, the author vividly contrasts the considerable sums of money spent by the Soviet Union on international educational exchanges of young people from the Third World with U.S. government support for scholarships to this country. If the Soviets are outspending the United States by a ratio of more than 10 to 1, it is all but certain that Moscow is buying—and buying cheaply—the minds and hearts of the next generation of leaders in some key Asian, African and Latin American countries.

Fortunately, there is an awareness in the administration of the powerful and life-transforming impact that can be achieved through student exchange programs. At the White House conference in May, President Reagan proposed a new program to expand the exchange of young people among the major industrialized nations. At the Versailles Summit in June, the leaders of France, the United Kingdom, the Federal Republic of Germany, Canada, Italy and Japan endorsed this initiative, which is intended to increase the sense of community and shared democratic values between young people of the successor generations and those who remember World War II and the postwar reconstruction. In subsequent years, the President's International Youth Exchange Initiative will be expanded.

Significant voluntary private sector support is expected to result from creation of the President's Council for Youth Exchange and the decision of the Advertising Council to mount a major advertising campaign to increase support for youth exchange throughout the country. The overall effort will be coordinated by the USIA in cooperation with the Consortium for International Citizen Exchange. This three-way collaborative effort among volunteer-based organizations, private philanthropy and government is designed to take advantage of existing delivery mechanisms, thus avoiding new bureaucracy, minimizing financial support from the federal government and maximizing the number of students and host families who can participate. Thus, while the Soviets are granting many more scholarships to young foreign nationals than does the United States, the Reagan administration is effectively and efficiently enhancing the capacity for increased student exchange with the United States, while serving as a model and catalyst for our major allies to do the same.

BENJAMIN L. MILK
Executive Vice President,
Youth for Understanding

Washington

RECOMMENDATION FOR INCREASED AID

Senator **Specter**. What is your recommendation for increased aid? You would like it to go from what to what?

Mr. **Milk**. We are supporting the request of the USIA.

Senator **Specter**. Thank you very much, Mr. Milk. We very much appreciate your being here.

Mr. **Milk**. Thank you, Mr. Senator.

Senator **Specter**. Senator Inouye, we have an extraordinary schedule which has been prearranged allowing a magnanimous amount of time for each of these distinguished witnesses to 5 minutes so that I am making an effort to abbreviate any questions, but I defer to you now.

Senator **Inouye**. No, Mr. Chairman; I should be honest with you. I am here primarily to demonstrate my support for the activities of the U.S. Travel Service. Just by my presence, I hope to suggest to them that I am on their side. [Laughter.]

Senator **Specter**. Your presence has now been supplemented by those statements, I am sure.

Senator **Inouye**. I would expect this committee to be generous, sir. [Laughter.]

Senator **Specter**. With that kind of a proclamation, what are our alternatives? [Laughter.]

Georgetown University

STATEMENT OF T. BYRON COLLINGS, S.J., GEORGETOWN UNIVERSITY

ACCOMPANIED BY:

HAROLD BRADLEY, S.J.
LEE ARBETMAN

OJJDP FUNDING LEVEL

Senator **Specter**. I would like to call at this time T. Byron Collins, S.J., from Georgetown University. Welcome.

Father **Collins**. Thank you, Senator. It is a pleasure to be here.

Senator **Specter**. The committee will look forward to your testimony.

Father **Collins**. I will be very brief. With me is Father Bradley, chairman of our international programs and Professer Lee Arbetman from our law center.

Senator **Specter**. Our compliments.

Father **Collins**. With regard to the funding level for the OJJDP, we recommend consideration by the Appropriations Committee for the funding level at the optimum level, that is $117 million.

We recommend that. Secondly, we do have a program——

Senator **Specter**. We accept the recommendation.

Father **Collins**. Thank you.

Senator **Specter**. I accept the recommendation. I think it is an excellent idea. I have been a champion for it.

Senator **Inouye**. We insist that you get it. [Laughter.]

Father **Collins**. Secondly, we have a program under way we would like to ask the committee to support and see that it continues. It is one that is in its third year of the program, Georgetown is, together with five other national organizations for the office's continuing national law related education program.

We ask the committee for support at the level of $1.5 million for that. So you are probably aware of it.

VALUE OF PROGRAM

Senator **Specter**. What does that program do, for the record?

Mr. **Arbetman**. That program provides educational programs that are deliquency prevention programs in the schools. It trains teachers; it puts lawyers and teachers together to participate in law related education, a program to teach young people about basic law that affects them in their daily lives and the fundamental values of the American Constitution, a program that is popular.

At Temple University in Philadelphia, there is a major program, and at the University of Pennsylvania, as well.

Senator **Specter**. Anything further, Father?

Father **Collins**. The international programs, the one which we are associated with?

Father **Bradley**. We are pleased to have the opportunity to thank the committee for its support of the international student exchange program and to report on its current activity.

We wish to support the authorization of increased resources for an exchange program which is applicable under the provisions of the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87-256, and we wish to thank the committee for its efforts to expand the cultural exchange.

We ask that the committee continue to seek assurance that these funds are used to stipulate and strengthen international exchange efforts.

Senator **Specter**. Thank you very much, Father.

Father **Collins**. Yes, thank you, Senator.

Senator **Specter**. We very much appreciate your being with us and yielding your balance of time. The expression is greatly appreciated.

Father **Collins**. Thank you.

[The statement follows:]

PREPARED STATEMENT OF T. BYRON COLLINS, S.J., SPECIAL ASSISTANT TO THE PRESIDENT OF GEORGETOWN UNIVERSITY

I am Father Byron Collins, special assistant for federal relations to Father Timothy Healy, President of Georgetown University. Although I am here primarily to testify in support of law-related education, one of OJJDP's exemplary programs, I initially want to urge the Committee to approve a fiscal year 1984 appropriation of $117 million, as recommended to the House Budget Committee by the House Committee on Education and Labor. Full funding is necessary for the office to continue its important work in juvenile justice and delinquency prevention.

My primary purpose today is to testify in support of the Office of Juvenile Justice and Delinquency Prevention's law-related education program. Law-related education programs provide youth with instruction in law, the legal process, and the fundamental values and principles underlying our constitutional order. The JJDP Act of 1974, as amended, specifically provides for training for personnel involved in law-related education programs.

Beginning with fiscal year 1982 moneys, the office provided approximately $1.2 million to six national law-related education organizations: Law in a Free Society, the Constitutional Rights Foundation, Children's Legal Rights Training and Information Center, the American Bar Association's Special Committee on Youth Education for Citizenship, Phi Alpha Delta International Legal Fraternity, and Georgetown University's own National Institute for Citizen Education in the Law. The fiscal year 1982 funding was to be the first year of a three year plan. During this time, the organizations were to work in a carefully coordinated manner, and in close cooperation with the staff of the office, toward two primary goals: (1) perfecting training and implementation models that will ensure optimal delinquency prevention impact of law-related education programs, and (2) developing models in three states for the institutionalization of law-related education—that is, making law-related education a permanent part of the school program, not requiring continued federal funding.

Preliminary research funded by OJJDP and conducted by independent investigators indicates that, when properly implemented, law-related education not only increases knowledge of and respect for the law but can, in fact, have a positive effect on the behavior of youth, reducing their commission of delinquent acts. In the three model institutionalization states—California, North Carolina and Michigan—we are finding that the public is extremely receptive to these programs. In Michigan alone, the following statewide organizations have passed resolutions in support of LRE: the Michigan Association of School Boards, the Michigan Sheriffs Association, the Michigan Association of Chiefs of Police, the Michigan Probate and Juvenile Court Judges, and the Michigan Commission on Criminal Justice.

Now beginning the second year of their three year plan, this program is on or ahead of its schedule of target goals. It is clear that law-related education is a cost-effective delinquency prevention program. While the office's current emphasis on serious and violent offenders is understandable and laudatory, they should not abandon support for proven, cost-effective prevention programs in mid-stream—especially programs that are supported by and likely to be picked up by the various states. I therefore ask that the Appropriations Committee specifically earmark $1.5 million of the OJJDP appropriation to continue their support of law-related education. Thank you.

JOINT PREPARED STATEMENT OF REV. T. BYRON COLLINS, S.J., SPECIAL ASSISTANT TO THE PRESIDENT OF GEORGETOWN UNIVERSITY AND REV. HAROLD BRADLEY, S.J., DIRECTOR, OFFICE OF INTERNATIONAL PROGRAMS OF GEORGETOWN UNIVERSITY

Mr. Chairman and members of this Committee, I am Father T. Byron Collins, S.J., Special Assistant to the President of Georgetown University. With me is Father Harold Bradley, S.J., Director of International Programs at Georgetown University.

We are pleased to have this opportunity to thank this Committee for its support of the International Student Exchange Program and to report on its current activity. We wish to support the authorization of increased resources for exchange programs as applicable under the provisions of the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87-256. We wish to commend the Committee for its support of the expansion of the United States' effort in international educational and cultural exchange. We ask that the Committee continue to seek assurance that these funds be used to stimulate and strengthen international exchange efforts.

We support the fiscal year 1984 budget request of the Bureau of Educational and Cultural Affairs of USIA. We feel strongly that the resources allocated by Congress and administered by that Bureau can be effectively utilized for the exchange purposes for which they have been intended.

The International Student Exchange Program (ISEP) is currently an organization of about 100 United States universities and colleges and 50 foreign institutions. This program has been supported by your Committee since 1979. The purpose was to provide a one-for-one student exchange for participating institutions across the United States and abroad where the institutions provided the cost of education and living through their own programs.

The pilot period of four years which ended in fiscal year 1982 proved the wisdom of the Committee. During this time there have been over 100 institutions in thirty-nine states in the program. These institutions have exchanged 695 students in the last four years with an overall exchange imbalance of only 8.5 students. That is, only 8.5 more students have come to the United States through ISEP than have gone abroad since the program began in January of 1979. This successful pilot has demonstrated a student exchange program where Federal contribution per student exchanged is less expensive than conventional exchange programs supported with Federal funds.

ISEP has been funded by the United States Information Agency to arrange one-for-one student exchanges between cooperating U.S. and non-U.S. institutions. ISEP is based on the premise that the real cost of education varies little from institution to institution and from country to country; therefore, a year of education "purchased" at one institution can reasonably be exchanged for a year of education elsewhere. ISEP provides the administrative structure which links the network of institutions worldwide to encourage and facilitate the regular exchange of students on a fully reciprocal basis. Except for travel, the cost to participating students is the same as if they remained at their home institutions.

ISEP requires funding only for the administration, with all other program costs being provided by the member institutions and program participants. Since its beginning in January 1979, ISEP has exchanged 695 students at a cost to the United States government of $1.4 million, or $2,014 per student. Funding for the current fiscal year has been agreed upon by representatives of ISEP and USIA. Discussions between ISEP and the Agency on funding for the next fiscal year have begun.

On behalf of our President, Reverend Timothy S. Healy, S.J., we thank you for the opportunity to appear before this Committee.

Senator **Specter**. I would like to turn now to Senator Inouye's request to hear the third panel related to the Commerce Department: The Honorable James Santini, a former Congressman from Chairman Laxalt's home State of Nevada and former head of the Travel and Tourism Caucus in the House of Representatives will begin the testimony for this panel discussing issues affecting the travel and tourism industry.

Following Congressman Santini, we will hear from Mr. James Montgomery; Mr. Paul Silverman; Dr. Rudolph Rosen; and Mr. Irwin Alperin.

We will complete the panel with a witness, Dr. Robert Larson, president of WITF Public Television from Harrisburg, who will testify on the National Association of Public Television Stations and the National Telecommunications and Information Administration.

Nevada Tourism Interests

STATEMENT OF THE HONORABLE JAMES D. SANTINI, NEVADA TOURISM INTERESTS

USTTA BUDGET

Mr. **Santini**. I appreciate the accommodation of the committee and its staff. I would request that my prepared statement be submitted at this time in the record.

Senator **Specter**. It will be included in full in the record.

Mr. **Santini**. I appreciate that, and we will attempt in the 3 minutes and 47 records remaining to restate my emphatic enthusiasm for the meager allocation of dollars that has been provided for the USTTA.

As I mentioned in Senator Inouye's absence and during a similar conversation before the authorization was made, it seems to me that we have continued this ongoing and frustrating attempt to confront the adversaries of commonsense and reason when it comes to understanding the economic contribution of tourism and travel and the economic health and jobs in the United States of America.

One graph, I think, demonstrates the fact that while we have Czechoslovakia, Greece, Luxembourg, the Netherlands, Yugoslavia, and France all spending in terms of real dollars more money than the United States of America; that in per capita expenditures, the United States of America is 67th in the world in expenditures for tourism and travel.

We find that a very effective and persuasive case in terms of jobs generated by tourism and travel dollars is well presented, documented, numerically authenticated in the travel and tourism governmental affairs policy statement.

While I note that John and Senator Inouye are versed in this particular document because of previous testimony, I would command it to the committee's attention and consideration because I think it tells a compelling and, in detailed fashion, a case for jobs and a case for dollars to support the $13 million authorization that is being sought, appropriations being sought for this coming fiscal year.

Irrefutable testimony that I received as Tourism and Travel Caucus Chairman in the House, as a member of the House Tourism and Travel Tourism Committee: In 1975, for every one tax dollar expended in the United States of America, $18.75 was returned in terms of increased revenues to both the Federal Treasury and the private sector.

That is the case, and perhaps the Senator has heard some attempt at the refutation of that case. I have never heard it.

That after, after four terms in the House, is still unrefuted.

Still, we still have to come in and grovel for Federal dollars about who would give a damn about a $119 billion industry in this country.

I very much hope that it will be the disposition of the committee to consider the $13 million appropriations request. I would be happy to answer any questions in the 1 minute and 12 seconds remaining to me.

[The statement of James D. Santini follows:]

PREPARED STATEMENT OF JAMES D. SANTINI
PAST CHAIRMAN
CONGRESSIONAL TRAVEL AND TOURISM CAUCUS

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to testify in support of adequate funding levels for the United States Travel and Tourism Administration (USTTA). During its consideration of Fiscal Year 1984 appropriations for Department of Commerce programs, the Subcommittee, ably led by Chairman Laxalt, is weighing USTTA funding. The role of the federal government in tourism promotion, the impact of travel and tourism on our nation's economy, and the tremendous return each federal travel and tourism dollar yields to our economy prove the necessity of adequate appropriations for the federal government's efforts in tourism promotion.

It is a special pleasure for me to be here today because of my past involvement with travel and tourism and my ongoing concern that promotion of travel and tourism to the United States be given its rightful position in the federal government's spending priorities.

I am the past Chairman of the Congressional Travel and Tourism Caucus, established in 1979 by members of Congress joined by their conviction that the travel and tourism industry is vital to the economic well-being of the United States. From a core of 5 representatives, the Caucus expanded its membership to 285, the largest special legislative organization in the history of the House of Representatives. The reason so many members joined this Caucus lies in the fact that tourism is a major industry in most of our 50 states and in every region of our country. The Caucus was put together to augment and supplement the efforts of the members of Congress who had focused on tourism concerns and of those private sector representatives who had labored so long, administration after administration, to try to instill a basic understanding of the importance of travel and tourism to our nation. The Caucus now exists as a forum for members to exchange ideas, concerns, and solutions pertaining to the tourism industry. It provides information to Caucus members, to other members of Congress, to the Administration, and to outside inquiries regarding the needs of the travel and tourism community and the issues affecting it. Since its creation, the Caucus has evolved to meet the challenges of a changing economic and political environment. Now under the able leadership of Chairman Bill Boner, the Caucus continues to fulfill its mission in close cooperation with the newly-created Travel and Tourism Government Affairs Council.

Among the issues the Caucus has successfully addressed is the passage of the National Tourism Policy Act of 1981. This law changed the old U. S. Travel Service to the USTTA and made the promotion of the United States as a travel destination an important national policy. Obviously, however, a national policy remains a mere abstraction until adequate funding makes its implementation a reality.

Tourism is the second leading retail industry in the United States today, trailing only the retail food stores. By the year 2000, the travel and tourism industry will be the world's top business. In 1981, United States and foreign travelers spent $191 billion in our country. Tourism's contribution and importance to the national economy is undisputed; it remains a mystery to me why members of the United States Congress and representatives of the private sector must, year after year, attempt to justify this industry.

The travel and tourism industry is synonymous with jobs. This has never been more important than in times of economic recession and high unemployment. Yet the national dialogue currently focused directly on the jobs question and possible solutions ignores the potential tourism holds for employment. Travel spending in the United States directly generated 4.6 million jobs in 1981. These travel and tourism jobs paid $40 billion in wages and salaries and provided $18 billion in federal, state, and local tax revenues. Many of these jobs are entry-level positions, providing an on-the-job training program for many workers. Furthermore, those in categories traditionally hit hardest by unemployment -- minority groups, women, and youth -- make up a disproportionate percentage of the travel and tourism employed. The Travel and Tourism Government Affairs Council has done extensive work in calculating the relation between the travel and tourism industry and employment. It demonstrates how a modest $28 million could contribute 400,000 jobs.

The federal government, however, has yet to accept the financial commitment to tourism promotion properly assigned to it. Last year, the travel and tourism community conducted an uphill battle for adequate USTTA funding. The ensuing Fiscal Year 1983 USTTA budget was $7.6 million. Earlier this year, in total defiance of the mandates of the National Tourism Policy Act, the Office of Management and Budget suggested zero funding for the USTTA for Fiscal Year 1984. As a result of the hard work of many, both within the Administration and the industry, the Administration recommendation for the Fiscal Year 1984 USTTA budget has been set at $5.4 million.

This proposed $5.4 million funding level is, nonetheless, a 33 percent cut from this fiscal year's budget. It is inadequate for the implementation of even the mandatory duties of the law.

For every tax dollar invested in tourism, there is an $18 return. Without question, tourism promotion is a sound, cost-effective investment. Faced with a solid, ever-growing market, the United States can only prosper from increased involvement in the international tourism market. In 1960, there were about 70 million international tourism arrivals worldwide. In 1970, this number rose to about 160 million. In 1980, the number grew to over 275 million tourist arrivals worldwide.

Yet while the number of international tourist arrivals worldwide has increased, the United States share of the international tourist market has not increased. Foreign visitor spending in the United States dropped 6.4 percent to $11.4 billion, while American spending abroad rose 7.7 percent to $12.3 billion, according to the United States Travel and Tourism Administration. The average overseas visitor in 1980 spent nearly $1,700 while in the United States, with South American visitors spending nearly twice as much. The United States simply cannot afford to lose out on this growing market; we must become a viable competitor in the international tourist market.

The United States must attract foreign visitors to offset negative balance of payments caused by U. S. dollars being spent outside the United States for tourism. For example, just as the travel industry has been predicting, we are on the brink of a travel surge to Europe this year. Prompted by the stronger dollar in Europe, astonishingly low airfares, and an economy poised to rebound, tour sales to Europe from the United States may break all records this year. This transfer of U. S. travel dollars to Europe means a potentially adverse effect on our balance of payments. The United States must become involved in tourism promotion, not only to bring European travelers to the United States, but also to keep the United States travelers within their own country.

Other nations are competing heavily for the international traveler's business. The average funding level among all countries of the world is over 27 times as much as USTTA's funds. While those nations having tourism promotion programs have increased their program funding by an average of 39 percent, the Administration's proposed funding level for USTTA remains deplorably meager.

In a 1981 comparative study of national government funding of USTTA's counterparts worldwide, the United States placed 27th -- far behind the funding levels of Czechoslovakia (first-ranked at $149.1 million), Turkey (second-ranked at $62.1 million), or Singapore (tenth-ranked at $24.3 million).

The pitiful state of the USTTA budget becomes even more apparent if consideration is limited to developed nations' government spending of USTTA's counterparts. In a 1981 comparison, the United States ranked 12th among developed nations. The average funding among these nations is almost 37 times as much as USTTA's funding. On a per capita basis, the United States' tourism promotion spending in 1981 was $.03 per person. It is difficult to understand how a country such as Malta can spend $5.61 per person on tourism promotion; Canada, $.96; Luxembourg, $.84; Spain, $.57; and Germany, $.13, while the United States travel community must battle to maintain its 15th-place funding ranking among developed nations of the world.

These statistics demonstrate the financial commitment that other countries have already made to travel and tourism promotion. These governments recognize the importance of travel and tourism to their economy. The USTTA, funded at a meaningful level, would perform tourism promotion functions that cannot be accomplished by the private sector nor by state and regional tourism organizations. The travel and tourism industry has proven its eagerness to help itself. A spirit of cooperation and mutual assistance is growing within the industry as it acknowledges the interdependence of its diverse components and the need to coordinate its efforts with the federal government's. In 1981, the industry formed the Travel and Tourism Government Affairs Council to represent the industry at the federal level of government. It stands ready to work with the federal government to meet the goals it shares with the federal government.

The United States does not lack a product; it lacks only the promotional plan to attract the international tourist. Our country rivals any other in the world in what we can offer the foreign visitor, in both natural and manmade marvels. Our services surpass any other nation's for efficiency, ease, and value. We, as a people, are hospitable and open to foreign visitors. In every state, in every region are wonders of which we are justifiably proud. A foreign visitor must come here and experience first-hand the United States in order to fathom its grandeur, its beauty, and its heritage. In addition to the economic gains of international tourism to the United States, we benefit as a nation from the world understanding that results from international exchange.

The potential for international tourism beckons. We appear to have weathered the worst of the international recession, and as economies pick up, both business and leisure travel will increase. In 1984, the World's Fair will be held in New Orleans, and the Olympic Games will take place in Los Angeles. These two host cities will not be the sole beneficiaries of increased visitors. Travelers coming to the United States from abroad will include other United States cities and states in their itineraries, as well.

Faced with the rising budget deficit, the Administration and the Congress are extremely budget conscious. I understand the need to pare down all programs to the absolutely necessary; I, too, have faced some tough funding decisions. Tourism promotion is a sound commitment of tax dollars. For relatively small amounts, this country can receive literally billions of dollars in foreign travel receipts and can create hundreds and thousands of jobs. I urge the Subcommittee to recommend adequate appropriations for USTTA.

Thank you.

U.S. COSTS FOR TOURISM

Senator **Specter**. Thank you, Congressman Santini.

Senator Inouye.

Senator **Inouye**. I would just like to bolster the Congressman's statement by pointing out from his appendix just a few facts that should be of interest to us.

Last year, we spent 3½ cents per capita for tourism; Bahamas, $85.39; Corsal, $24.30; Guam, $17.76; Czechoslovakia, $9.82, and it goes all the way down, and we are number 64 in the community of nations.

Now, put another way, the Government of Czechoslovakia, I don't know why people want to go to Czechoslovakia, but they spent, last year, $150 million. We spent $8 million. In fact, Turkey, I didn't know that Turkey was such an enticing place, but they spent $62 million.

Greece is a lovely place, $57; Spain, $57; Belgium, $44, Korea—they want to go to Panmunjom, I guess——

[Laughter.]

Senator **Inouye**. $30 million; Canada, incidentally, Mr. Chairman, spent $29 million, almost all of that spent here in the United States enticing Americans to go up north.

As Congressman Santini has indicated, the United States is the most desired destination area in the world, and yet we are not getting our share because all these other areas are spending their money enticing people to go elsewhere.

If we can increase our industry by just $1 billion, that would mean 40,000 more people employed. That is simply mathematics. Like the Congressman, I can't understand why the United States, unlike all the other nations, has not seen this.

In every industrialized country, tourism is handled by a member of the cabinet. Not here.

When we created this agency a long, long time ago, we upgraded that position from director to assistant secretary, and at that time, the administration was quite reluctant to accept that increase because they said, "Will this mean we will have to assign a driver and an automobile to this fellow?"

That was their major concern.

I would hope that this Congress recognizes that tourism is second only to the retail industry. Tourism, among all the major industries, is the least polluting and tourism, among all the industries, will provide employment to the most difficult to employ: minorities, women, and the young.

So I would hope we go along with this. I have given my speech. [Laughter.]

Senator **Specter**. Very eloquently stated. Besides, after your speech, you can vote. [Laughter.]

Senator **Specter**. I would like now to call on Mr. James Montgomery, chairman and president and chief executive officer of Pan Am World Services, Inc.

PAN AM WORLD SERVICES, INC.

STATEMENT OF JAMES MONTGOMERY, CHAIRMAN, PRESIDENT, AND CHIEF EXECUTIVE OFFICER, PAN AM WORLD SERVICES, INC.

SUPPORT FOR PROVISIONS OF S. 212

Senator SPECTER. Welcome, Mr. Montgomery. We look forward to your testimony.

Mr. MONTGOMERY. Thank you, Mr. Chairman and Senator Inouye. It is nice to be with you again, Senator.

As you have said, I am James Montgomery. I work for Pan American Worldwide Services. That is a subsidiary, in case you don't know, Mr. Chairman, of the Pan American World Airways, whose marketing department I headed for many years and so I know a little bit about the generation of traffic to the United States.

I am here today, however, Mr. Chairman, representing the Travel and Tourism Government Affairs Council which is an affiliate of the Travel Industry Association of America. I happen to know the Chairman of the Travel and Tourism Advisory Board for the Secretary of Commerce.

I am here just to supplement the remarks of my admired friend, Jim Santini. We have, of course, submitted our full testimony, Mr. Chairman, and I will only take a few minutes to very briefly summarize some of the points in that testimony.

But the Travel and Tourism Policy Council is vitally and deeply interested in the provisions of S. 212 and hopes very much that the appropriations will match the authorization proposed in that bill.

Certainly, the U.S. Travel and Tourism Administration cannot possibly fulfill the terms of the act which Senator Inouye was so prominent in bringing into being, the act of Congress, the Travel and Tourism Policy Act.

Really, it is only a beginning. While we wholeheartedly support it, but it is a beginning which we believe will move the United States back toward being competitive, to some degree, in this cutthroat competition of the countries of the world to attract tourism to their shores.

This industry, as I am sure you know, is the second largest retail industry and the third largest export industry of the United States. Very importantly, I think we must realize that it generated 179,000 new jobs in the recessionary year of 1981 with 55,000 of those coming from the generation of international traffic to these shores.

And yet the Government spent only eight-tenths of 1 percent, a figure mentioned by Senator Inouye, of the tax receipts that it received.

To put that in another way, the entire U.S. Travel and Tourism Administration budget was returned to the Government in less than 5 days of the whole year by the taxes paid by the incoming tourists.

The Council believes that it would be far more prudent to invest further in such promotion of tax generation and of job creation than to waste those substantial opportunities that we have before us today.

Funding the USTTA for 3 years at the level proposed in S. 212 would generate an estimated $273 million more in Federal tax revenues alone than continued funding at the $7.6 level that exists today.

The industry, you should know, Mr. Chairman, is in the process of drafting a marketing plan that will be submitted to the USTTA, to the Congress, to the OMB in the form of a recommendation of a task force of highly senior private sector international travel marketing executives.

It is designed to insure that a maximum return on the investment which we are proposing will be gained from this increased Government spending—I shouldn't call it Government spending; it is Government investment.

The main purpose, as I think I mentioned already, is that we should get the United States back into a competitive position; actually, out of the unfortunate position it has been in ever since 1976. The U.S. share in international tourism has been declining.

Last year, so far as we can estimate, it had sunk from a former level of 13 percent to a level of some 10.6 percent of that rather vast gold mine that is waiting out there for us.

The industry's concern regarding this shrinking market is that we should study hard to return the United States to that 13-percent market share.

It would certainly require a sophisticated marketing plan, and that is what we are proposing to create for you; and it certainly would require at least this budget; in fact, we believe that a more realistic figure would be a figure of some $17.5 million in 1984 and some $39.5 million in 1988 to return the United States to that full 13-percent share.

We believe quite realistically that that can be done and that that, by itself, would create over 200,000 new jobs, and that the cost, therefore, of creating those new jobs would only be $656 per job—no thousands, no millions, just $656 per job.

Certainly, from generating taxes and from creating of jobs, Mr. Chairman, we believe that the full appropriation will be entirely in the interests of the United States.

Senator Specter. Thank you very much, Mr. Montgomery.

Is that it, Senator Inouye?

We very much appreciate your coming, Congressman Santini and Mr. Montgomery, and we shall take a very close look at it, of course.

[The statement of James Montgomery follows:]

PREPARED STATEMENT OF JAMES MONTGOMERY

CHAIRMAN, PRESIDENT & CEO

PAN AM WORLD SERVICES, INC.

The Travel and Tourism Government Affairs Council appreciates the opportunity to present testmony in support of appropriations for the United States Travel and Tourism Administration (USTTA).

The Travel and Tourism Government Affairs Council, an affiliate of the Travel Industry Association of America, includes 28 major national travel and tourism trade organizations and is the official organization representing the industry on government issues of concern to the entire industry.

The travel industry continues to be vitally interested in the purposes of the National Tourism Policy Act and its designated principal instrument of policy implementation. The United States Travel and Tourism Administration. USTTA must have adequate funding in order to carry out the explicit intent of the Policy.

The Government Affairs Council supports the principles underlying the introduction of the authorization bill, S. 212, which reverses the six year trend of continuous reductions in funding for USTTA. In addition, the multi-year authorization proposed should do much to improve USTTA's ability to develop cohesive ongoing marketing plans. It is imperative that USTTA be adequately funded, in order to generate jobs, increase federal tax revenues, improve export earnings, and restore the competitive position of the U.S. in the world market place.

The average spending among all countries of the world was over 100 times USTTA's funding in 1981 on a per capita basis. The average budget for national tourism organizations world wide is $3.53 per capita compared to the U.S. at 3-1/2 cents per capita. This far below average investment in USTTA activities has caused the U.S. to continue its 7 year decline in competitiveness to a rank of 64th in the world in terms of funding of national tourism organizations. (See Appendices 1,2,3,&4)

The U.S.'s competitive position in the world has continued to slip each year since 1976 as USTTA's international promotion efforts were decreased with each successive budget cut. In 1981, when federal funding for international promotion declined to $5.8 million, other governments of the world increased their promotional funding by an average of 39%. On a per capita basis the U.S. ranked 56th worldwide in promotional spending in 1981 and has likely slipped further as funding for USTTA was reduced while the dollar continued to gain. (See Appendices 5,6,&7)

The U.S. share of world tourism receipts declined from 13% in 1976 to 10.6% in 1982, parallelling this downward trend in USTTA funding. Each 1% of world market share in 1981 translated into $1 billion in export receipts; $95 million in federal, $59 million state, and $11 million in local taxes; and approximately 28,500 jobs. (See Appendix 8) Other developed nations of the world receive an average of almost 3-1/2 times as much in international travel receipts as the U.S. on a per capita basis (See Appendix 9) and over 3 times the market share received by the U.S. on a per capita basis. (See Appendix 10) Should USTTA continue to be funded at the current non-competitive level the U.S. market share will likely continue to shrink to about 7.6% in 1988.

accompanied by a loss of 81.000 jobs in addition to the 55.000 estimated to be lost in 1982 and 1983.

These prospective job losses could be avoided. those that are currently being lost could be restored. and significant numbers of new jobs could be generated if the Congress were to take two steps. First. if international travel promotion was viewed as a job generating activity of the government or. if you will. USTTA funding was viewed as a "jobs bill". over 200.000 new jobs could be generated over a 5 year period at a cost to the government of only $656 per job. This will be discussed later in the Council's testimony. Second, if the Congress were to pass. prior to 1984. visa waiver legislation long sought by the travel industry. not only would a significant number of new jobs be generated within one year. but an important boost would be given to the Louisiana World Exposition and the summer Olympic Games in Los Angeles.

S. 212 is a promising beginning. moving the U.S.toward a more competitive position in the world market place. While travel and tourism is the second largest retail or service industry in the U.S. accounting for 6.5% of GNP; and generating 179,000 new jobs, 18% of all new jobs created in the recessionary year of 1981. and 27% of all new jobs created in the U.S.in 1979. 80 and 81. (See Appendix 11), the U.S. spent only 8/100 of 1% of tax receipts it received from this economic activity on funding for USTTA. It is indisputable that additional spending by the government would increase federal revenues. contribute positively to the balance of payments and reduce unemployment.

Should USTTA be funded at $13 million in 1984 as proposed in S. 212. federal tax revenues generated by international visitors would return that funding in just 7 days. Federal tax revenues for 1984 would increase by an estimated $75 million. In addition. 25,000 new jobs would be created.

The Council recognizes the need for federal fiscal restraint by the Administration and the Congress to reduce the federal deficit. However, international travel promotion has proven employment and tax revenue generating potential. The Council thus believes that it is far more prudent to invest further in such promotion. rather than to forego the substantial tax revenues and new employment that could be generated. We therefore urge the U.S.Senate to support S. 212. (See Appendix 14 for a discussion of the principal factors driving the international tourism market.)

Tax Revenue Potential of S. 212*

Funding USTTA for three years at the levels proposed in S. 212 would generate an estimated $273 million more in federal tax revenues than continued level funding at $7.6 million. A USTTA appropriation of $13 million in 1984. with a sophisticated marketing program properly focused on correctly targeted foreign markets. would likely produce a $75 million increase in federal tax revenues over revenues anticipated in 1983.

The proposed $14 million allocation for 1985. if appropriated. would generate $91 million more in federal tax revenues than are likely with level funding at 1983 levels. A USTTA budget of $15 million in 1986 would generate an estimated $107 million more in federal tax revenues than level funding would generate.

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* See Figure 1 for details.

	1983	1984	1985	1986
Taxes Generated by S. 212 (mil. $)	N/A	697	713	729
Taxes Generated by Level Funding (mil. $)	622	622	622	622
Net Gain	N/A	75	91	107

Total Additional Tax Revenues Generated by S. 212 = $273 million

Job Generating Potential of S. 212*

Funding USTTA at $13, $14 and $15 million over the next 3 years would generate an estimated 55.000 more jobs for U.S. workers than level funding would achieve over the same 3 year period. A USTTA budget of $13 million for 1984 would likely generate 25,000 new jobs within the first year recovering, in part, the estimated 19.000 jobs expected to be lost in 1983 due to the inadequacy of level funding at $7.6 million. With level funding an additional 17.000 jobs would likely be lost in 1984.

While a 1985 budget of $14 million is not likely to be sufficient to permanently maintain the jobs gained in 1984, the expected loss would be limited to 10,000 jobs compared to an anticipated loss of 17.000 jobs expected from level funding at $7.6 million in 1985. Funding USTTA in 1986 at $15 million would likely hold job losses to 10.000 compared to the anticipated 16.000 that would be lost with level funding.

	1983	1984	1985	1986
Employment Generated by S. 212	N/A	396.000	386,000	376.000
Employment Gained/Lost Over Previous Year	N/A	25.000	(10.000)	(10.000)
Employment Generated by Level Funding	371.000	354.000	337.000	321.000
Employment Gained/Lost Over Previous Year	(19.000)	(17.000)	(17.000)	(16,000)
Additional Jobs Generated by S. 212 over Level Funding	N/A	42.000	49.000	55.000

Total Additional Jobs Generated by S. 212 = 55.000 jobs

U.S. Export Earnings Potential of S. 212*

Funding USTTA at the levels proposed would likely contribute an estimated $5.1 billion more in U.S international receipts from foreign visitors (export earnings) than level funding at $7.6 million per year over the 3 year period. A properly developed U.S. marketing plan could increase U.S. export earnings from international tourism by 11% in 1984 generating $1.4 billion in additional international receipts.

Funding USTTA at $14 million in 1985 would increase export earnings by $1.7 billion over level funding at the 1983 level of $7.6 million. The $15 million proposed by S. 212 for 1986, if appropriated, would generate an estimated $2.0 billion more in export earnings over international receipts anticipated from level funding.

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* See Figure 1 for details.

	1983	1984	1985	1986
Receipts Generated by S. 212 (bil. $)	N/A	13.1	13.4	13.7
Receipts Generated by Level Funding (bil. $)	11.7	11.7	11.7	11.7
Net Gain	N/A	1.4	1.7	2.0

Total Additional Receipts Generated by S. 212 = $5.1 billion

Potential Impact of S. 212 on U.S. Market Share of International Tourism Receipts*

The impact of funding USTTA at the levels proposed in S. 212 would be to reverse the U.S. decline in market share of international tourism receipts in 1984 and substantially improve the U.S. market share over what could be expected from level funding in 1985 and 1986.

Initially, in 1984, an increase in market share of 10.8% could be expected from a $13 million USTTA budget, compared to an anticipated 10.1% market share for 1983 and 9.6% for 1984 with level funding. A USTTA budget of $14 million in 1985 would likely produce a U.S. market share of 10.4%, 14% better than the 9.1% market share anticipated with level funding. Funding USTTA at $15 million in 1986 would result in a 10.0% U.S. market share, almost 18% better than the 8.5% anticipated with continued level funding.

	1983	1984	1985	1986
Market Share Generated by S. 212	N/A	10.8%	10.4%	10.0%
Market Share Generated by Level Funding	10.1%	9.6%	9.1%	8.5%
Net Gain	N/A	1.2%	1.3%	1.5%

Clearly S. 212 is a move in the right direction. USTTA appropriations declined from $14.5 million in 1977 to $7.6 million in 1983 (excluding the $500,000 appropriation earmarked for Hawaii disaster relief). Even if this decline in funding were arrested and funding remained constant over the next 5 years at $7.6 million, U.S. share of international receipts would likely continue to decline to 7.6% by 1988. This decline in U.S. market share will be difficult to arrest for a number of reasons.

Until the current worldwide recession, the size of the world tourism market grew at a rate of 19.28% per year over the 5 year period 1977-1981 (See Appendix 12), shrinking to a 4% growth rate from 1981 to 1982. The expansion of the world market is expected to recover between 1983 and 1985, returning to a sustainable annual growth rate of at least 6% per year thereafter, based upon Council estimates.

While the U.S. has been reducing its promotion efforts overseas or maintaining promotional efforts at non-competitive levels. other countries have been increasing their promotional efforts. For example. the average increase in promotional spending in 1981 over 1980 by governments worldwide was 39%. up from a worldwide average increase the prior year of 18%. Over the five year period (1977-1981) the U.S. decreased its promotional spending by 42.6% while Germany increased its overseas promotional efforts by 24%. France by 156%. Spain by 83%. Singapore by 28%. Canada by 23% and Sri Lanka by 177%.

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* See Figure 1 for details.

One of the unique aspects of the world tourism market is that third world nations. regardless of size. can directly and successfully compete with the U.S. for international visitors. It is these undeveloped nations which are intensifying government to government competition in the world marketplace with increased spending on promotion and increasingly sophisticated marketing programs. Not only has the U.S. dropped to 56th (1981) in ranking in terms of promotional spending worldwide on a per capita basis. it has done little to increase its marketing sophistication in the face of increasingly aggressive competition.

The Council. with grave concern for our slipping competitiveness and shrinking market share. and awareness of Congressional initiatives to increase jobs. has developed a hypothetical funding scenario that would return the U.S. to a 13% market share over a 5 year period. This 13% Market Share Scenario would require a USTTA 1984 budget of $17.5 million rising to $39.5 million in 1988 in order to return the U.S. to a 13% market share in 5 years.

Tax Revenue Potential of the 13% Market Share Scenario**

Funding USTTA for 5 years at $17.5 million in 1984. rising to $39.5 million in 1988 would generate $1.4 billion more in federal tax receipts than level funding at $7.6 million per year would achieve over the same period and $1.1 billion more than S. 212. A USTTA budget of $17.5 million in 1984 would increase federal tax revenues by an estimated $138 million over 1983 estimated tax receipts. Funding USTTA at $21.8 million in 1985 would increase federal tax revenues by an estimated $197 million more than level funding.

A 1986 USTTA budget of $26.2 million would increase federal tax revenues by an estimated $261 million over level funding. With a budget of $32.7 million in 1987, federal tax receipts would likely increase $352 million over what could be expected from level funding at the 1983 level of $7.6 million. A 1988 USTTA budget of $39.5 million would likely increase federal tax receipts by $447 million over level funding.

	1983	1984	1985	1986	1987	1988
Taxes Generated by the 13% Market Share Scenario (mil. $)	N/A	760	819	883	974	1069
Taxes Generated by Level Funding (mil.$)	622	622	622	622	622	622
Net Gain	N/A	138	197	261	352	447

Total Additional Tax Revenues Generated by 13% Scenario = $1.4 billion

Job Generating Potential of the 13% Market Share Scenario**

Funding USTTA at $17.5 million in 1984. rising to $39.5 million in 1988 would generate 210.000 more jobs than level funding would achieve over the 5 year period and 154.000 more jobs than S. 212. The funding level of USTTA hypothesized in this scenario for 1984 would likely generate 61.000 new jobs with an additional 11.000 jobs estimated to be added in 1985.

** See Figure 2 for details.

	1983	1984	1985	1986	1987	1988
Employment Generated by the 13% Scenario	N/A	432.000	443.000	455.000	478.000	500.000
Employment Gained/Lost Over Previous Year	N/A	61,000	11.000	12.000	23,000	22.000
Employment Generated by Level Funding	371.000	354.000	337,000	321,000	306,000	291.000
Employment Gained/Lost Over Previous Year	(19.000)	(17,000)	(17,000)	(16,000)	(15.000)	(15.000)
Additional Jobs Generated by 13% Scenario er Level Funding	N/A	78.000	28.000	28.000	- 38.000	37.000

Total Additional Jobs Generated by 13% Scenario = 210.000 Jobs

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2/ See Figure for details.

A 1986 USTTA budget of $26.2 million would generate another 12,000 new jobs and budgets of $32.7 million in 1987 and $39.5 million in 1988 would add 23.000 and 22.000 new jobs respectively. These figures compare with job losses anticipated with level funding at 18,000 in 1984. 17.000 in 1985. 16.000 in 1986. 15.000 in 1987 and 15,000 in 1988. totaling 81.000 jobs lost over 5 years.

U.S. Export Earnings Potential of the 13% Market Share Scenario**

Funding USTTA at the levels previously discussed would help to nearly double U.S. receipts (export earnings) from international tourism rising from an estimated $11.7 billion in 1983 to $20.1 billion in 1988 compared to $11.7 billion anticipated in 1988 from level funding and $14.2 billion from S. 212. This scenario would likely generate an estimated $26.2 billion more in U.S. international receipts from foreign visitors than level funding at $7.6 million per year over the 5 year period and $16.4 billion more than S. 212 extended to 5 years.

A USTTA budget of $17.5 million in 1984 would help generate an estimated $14.3 billion in receipts. an increase of $2.6 billion over 1983. A 1985 budget of $21.8 million would help generate an estimated $15.4 billion in receipts. $3.7 billion more than level funding would generate. Funding for 1986 at $26.2 million would help generate an estimated $16.6 billion in receipts. $4.9 billion more than level funding. Budgets of $32.7 million in 1987 and $39.5 million in 1988 would help generate an estimated $18.3 billion and $20.1 billion respectively.

	1983	1984	1985	1986	1987	1988
Receipts Generated by the 13% Market Share Scenario (bil. $)	N/A	14.3	15.4	16.6	18.3	20.1
Receipts Generated by S. 212 (bil. $)	N/A	13.1	13.4	13.7	13.9	14.2
Receipts Generated by Level Funding (bil. $)	11.7	11.7	11.7	11.7	11.7	11.7
Additional Receipts Generated by 13% Scenario Over Level Funding	N/A	2.6	3.7	4.9	6.6	8.4

Total Additional Receipts Generated by 13% Scenario Over S. 212 = $16.4 billion

Total Additional Receipts Generated by 13% Scenario Over Level Funding = $26.2 billion

Potential Impact of the 13% Market Share Scenario on U.S. Market Share of International Tourism Receipts[2/]

The impact of funding USTTA at levels discussed would increase

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** See Figure 2 for details

U.S. market share from the anticipated 1983 level of slightly more than 10% to the scenario's stated goal of 13% compared to 7.6% with level funding and 9.2% with S. 212.

	1983	1984	1985	1986	1987	1988
Market Share Generated by 13% Scenario	N/A	11.7%	11.9%	12.1%	12.6%	13.1%
Market Share Generated by S. 212	N/A	10.8%	10.4%	10.0%	9.5%	9.2%
Market Share Generated by Level Funding	10.1%	9.6%	9.1%	8.5%	8.1%	7.6%
Additional Market Share Generated by 13% Scenario over S. 212	N/A	0.9%	1.5%	2.1%	3.1%	3.9%
Additional Market Share Generated by 13% Scenario Over Level Funding	N/A	2.1%	2.8%	3.6%	4.5%	5.5%

As illustrated by the 13% Market Share Scenario, investment in international promotion is clearly defensible from the government's point of view as a job generating activity, over 200.000 new jobs over 5 years at a cost of $656 per job. Similarly. federal expenditures of $137.8 million over 5 years would generate over $4.5 billion in federal tax revenues and could therefore clearly be undertaken as a revenue enhancement activity. Further. the ability of investment in international promotion to generate export earnings clearly enhances federal efforts to maintain a positive balance of payments.

It is clear to the travel industry that increased funding for USTTA is in the national interest from a jobs generating. revenue enhancing, and foreign trade policy point of view. S. 212 should be fully funded as an important step toward a rational spending policy that contributes to the viability of hundreds of thousands of small business in the U.S. but even more importantly supports Administration and Congressional efforts to minimize and reduce unemployment. generate additional federal revenues. and improve our balance of payments.

** See Figure 2 for details.

Figure 1

Historic Data and Projections Based on S.212

	World Tourism Receipts	U.S. International Receipts	U.S. Share of World Market	USTS/USTTA Total Budget	USTS/USTTA Overseas Expenditures	Estimated Federal Taxes Generated	Estimated Employment Generated	Estimated New Jobs Generated/Jobs Lost
	(bil$)	(bil$)	(%)	(mil$)	(mil$)	(mil$)	(000)	(000)
1975	35.97	4.7	13.1	11.2	7.9	250	224	
1976	43.85	5.7	13.0	12.8	7.8	304	258	34
1977	53.45	6.2	11.6	14.5	8.7	330	266	8
1978	65.45	7.2	11.0	14.2	9.2	384	294	28
1979	78.30	8.3	10.6	13.5	10.0	440	322	28
1980	95.28	10.1	11.0	8.0	5.8	538	372	50
1981	106.10 1/	12.2	11.5	8.0	5.8	650 5/	427	55
1982	110.52 1/	11.7	10.6	7.6	5.5	622 5/	390 6/	(37)
1983	116.05 1/	11.7 2/	10.1	7.6	5.5 4/	622 5/	371 6/	(19)
1984	121.85 1/	13.1 2/	10.8	13.0 3/	9.5 4/	697 5/	396 6/	25
1985	129.16 1/	13.4 2/	10.4	14.0 3/	10.2 4/	713 5/	386 6/	(10)
1986	136.91 1/	13.7 3/	10.0	15.0 3/	11.0 4/	729 5/	376 6/	(10)
1987	145.12 1	13.9 2/	9.5	16.0 3/	11.7 4/	739 5/	363 6/	(13)
1988	153.83 1/	14.2 2/	9.2	17.0 3/	12.4 4/	755 5/	353 6/	(10)

NOTE: Figures for 1984 do not take into account the likely significant economic impact of the World Fair and the Olympic Games.

1/ World Tourism Receipts which grew at a rate of 19.28% per year for the period of 1976-1981 were estimated to increase 4% (81-82) repressed by world-wide recession, estimated to increase 5% (82-83, 83-84), and 6% per year thereafter.

2/ Total U.S. International Receipts (export earnings) estimates were based on two assumptions. First, the $5.5 million spent in 1982 by USTTA on international promotion probably had little or no effect on number of visitors or U.S. international receipts from tourism--a conservative assumption. Second, spending above this level would likely produce the same results as the average effect of other countries' spending on promotion. Therefore, for promotional spending up to $5.5 million, it was assumed that U.S. receipts would be the same as 1982, discounting inflation, and that USTTA spending above this amount would produce similar results to the international five year average of national government promotional spending related to receipts of 60 countries--also a conservative approach which eliminates the effect of currency fluctuations and individual countries' periodic economic difficulties.

3/ Total USTTA Budget assumed to be $13 million in 1984, $14 million in 1985, and $15 million in 1986 as proposed by S. 212 and increasing $1 million per year thereafter.

4/ Share of USTTA budget for overseas expenditures in 1981 was 72.5% of total budget and assumed to be constant thereafter as required by the National Tourism Policy Act.

5/ Federal tax revenues were estimated as a constant percent of international receipts using 1981 as a base at 5.32%.

6/ Employment estimates deflated by 5% per year to account for earnings growth based on actual figures for 1981.

Figure 2

Historic Data and Projections Based on A 13% Market Share Scenario

	World Tourism Receipts (bil$)	U.S. International Receipts (bil$)	U.S. Share of World Market (%)	USTS/USTTA Total Budget (mil$)	USTS/USTTA Overseas Expenditures (mil$)	Estimated Federal Taxes Generated (mil$)	Estimated Employment Generated (000)	Estimated New Jobs Generated/Jobs Lost (000)
1975	35.97	4.7	13.1	11.2	7.9	250	224	
1976	43.85	5.7	13.0	12.8	7.8	304	258	34
1977	53.45	6.2	11.6	14.5	8.7	330	266	8
1978	65.45	7.2	11.0	14.2	9.2	384	294	28
1979	78.30	8.3	10.6	13.5	10.0	440	322	28
1980	95.28	10.1	11.0	8.0	5.8	538	372	50
1981	106.10 1/	12.2	11.5	8.0	5.8	650 5/	427	55
1982	110.32 1/	11.7	10.6	7.6	5.5	622 5/	390 6/	(37)
1983	116.05 1/	11.7 2/	10.1	7.6	5.5 4/	622 5/	371 6/	(19)
1984	121.85 1/	14.3 2/	11.7	17.5	12.8 4/	760 5/	432 6/	61
1985	129.16 1/	15.4 2/	11.9	21.8	15.9 4/	819 5/	443 6/	11
1986	136.96 1/	16.6 2/	12.1	26.2	19.1 4/	883 5/	455 6/	12
1987	145.18 1/	18.3 2/	12.6	32.7	23.9 4/	974 5/	478 6/	23
1988	153.87 1/	20.1 2/	13.1	39.6	28.9 4/	1069 5/	500 6/	22

NOTE: Figures for 1984 do not take into account the likely significant economic impact of the World Fair and the Olympic Games.

1/ World Tourism Receipts which grew at a rate of 19.28% per year for the period of 1976-1981 were estimated to increase 4% (81-82) repressed by world-wide recession, estimated to increase 5% (82-83, 83-84), and 6% per year thereafter.

2/ Total U.S. International Receipts (export earnings) estimates were based on two assumptions. First, the $5.5 million spent in 1982 by USTTA on international promotion probably had little or no effect on number of visitors or U.S. international receipts from tourism--a conservative assumption. Second, spending above this level would likely produce the same results as the average effect of other countries' spending on promotion. Therefore, for promotional spending up to $5.5 million, it was assumed that U.S. receipts would be the same as 1982, discounting inflation, and that USTTA spending above this amount would produce similar results to the international five year average of national government promotional spending related to receipts of 60 countries--also a conservative approach which eliminates the effect of currency fluctuations and individual countries' periodic economic difficulties.

3/ Total USTTA Budget assumed to be $17.5 million in 1984, $21.8 million in 1985, and $26.2 million in 1986, $32.7 million in 1987, and $39.6 million in 1988.

4/ Share of USTTA budget for overseas expenditures in 1981 was 72.5% of total budget and assumed to be constant thereafter as required by the National Tourism Policy Act.

5/ Federal tax revenues were estimated as a constant percent of international receipts using 1981 as a base at 5.32%.

6/ Employment estimates deflated by 5% per year to account for earnings growth based on actual figures for 1981.

Appendix 1

Travel and Tourism Government Affairs Council
An Affiliate of the
Travel Industry Association of America

Per Capita Spending by National Government Tourism Organizations

The average among all countries of the world is over 100 times as much as USTTA's funding on a per capita basis.

The average budget for national tourism organizations worldwide is $3.53 per capita compared to the U.S. at 3½ cents per capita.

National Government Funding of USTTA's Counterparts Worldwide on a Per Capita Basis (1981)

1. Bahamas 85.39
2. Curacao 24.30
3. Guam 17.76
4. Singapore 10.27
5. Czechoslovakia 9.82
6. Malta 8.77
7. New Caledonia 6.58
8. Greece 6.12
9. Jamaica 5.78
10. Cyprus 4.91
11. Belgium 4.53
12. Macao 3.65
13. Libya 3.01
14. Hong Kong 2.16
15. Tonga 1.91
16. Finland 1.79
17. Iceland 1.77
18. Venezuela 1.67
19. Syria 1.65
20. Luxembourg 1.58
21. St. Vincent & The Grenadines 1.58
22. Spain 1.52
23. Turkey 1.33
24. Canada 1.20
25. Peru 1.11
26. Dominica .99
27. Netherlands .96
28. Norway .90
29. Rwanda .87
30. Korea .76
31. Australia .75
32. Equador .75
33. Hungary .73
34. Malaysia .70
35. Colombia .68
36. Senegal .61
37. Ghana .53
38. France .52
39. Jordan .43
40. Chile .40
41. Algeria .40
42. Italy .36
43. Lesotho .36
44. Cameroon .33
45. Yugoslavia .27
46. Bolivia .27
47. Germany .26
48. Zambia .26
49. Paraguay .24
50. Sri Lanka .23
51. Argentina .22
52. Honduras .21
53. Togo .21
54. Sierra Leone .20
55. Tanzania .19
56. Yemen .16
57. Papua New Guinea .15
58. Brazil .13
59. Mauritius .13
60. Malawi .12
61. Kenya .12
62. Thailand .11
63. Botswana .06
64. United States .035

Source: World Tourism Organization and Travel and Tourism Government Affairs Council

Figures in U.S. Dollars

Appendix 2

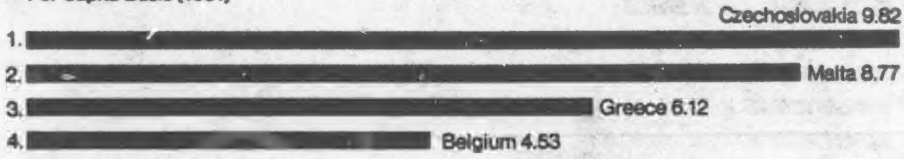
Travel and Tourism Government Affairs Council
An Affiliate of the
Travel Industry Association
of America

Per Capita Spending by Developed Nations' Tourism Organizations

The average budget for developed nations' tourism organizations worldwide is $2.33 per capita compared to the U.S. at 3½ cents per capita.

The average among developed nations of the world is over 66 times as much as USTTA's funding on a per capita basis.

Developed Nations' Government Funding of USTTA's Counterpart Worldwide on a Per Capita Basis (1981)



5. Finland 1.79
6. Iceland 1.77
7. Luxembourg 1.58
8. Spain 1.52
9. Canada 1.20
10. Netherlands 0.96
11. Norway 0.90
12. Australia 0.75
13. Hungary 0.73
14. France 0.52
15. Italy 0.36
16. Yugoslavia 0.27
17. Germany 0.26
18. United States 0.035

Source: World Tourism Organization and Travel and Tourism Government Affairs Council

Figures in millions U.S. Dollars

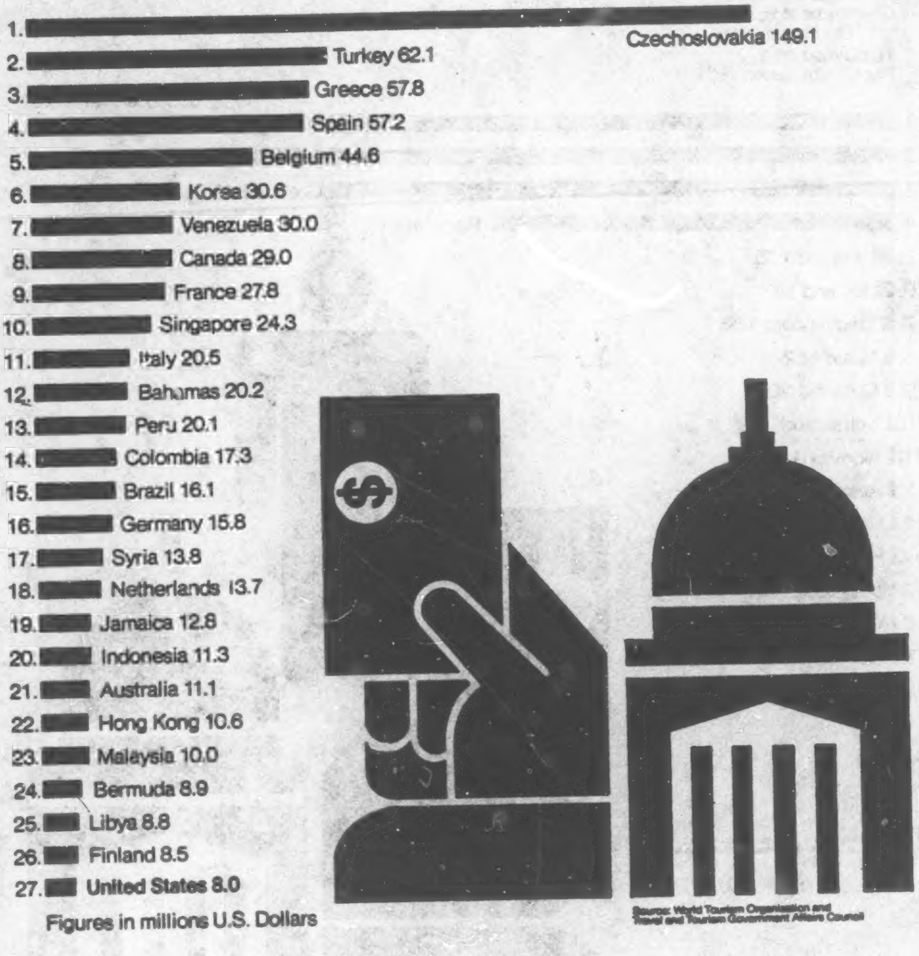
Appendix 3

**Travel and Tourism
Government Affairs Council**
An Affiliate of the
Travel Industry Association
of America

**Total Spending by
National Government
Tourism Organizations**

**National Government
Funding of USTTA's
Counterparts
Worldwide (1981)**

The average funding among developed nations of the world is almost 3.5 times as much as USTTA's funding.



Figures in millions U.S. Dollars

Source: World Tourism Organization and Travel and Tourism Government Affairs Council

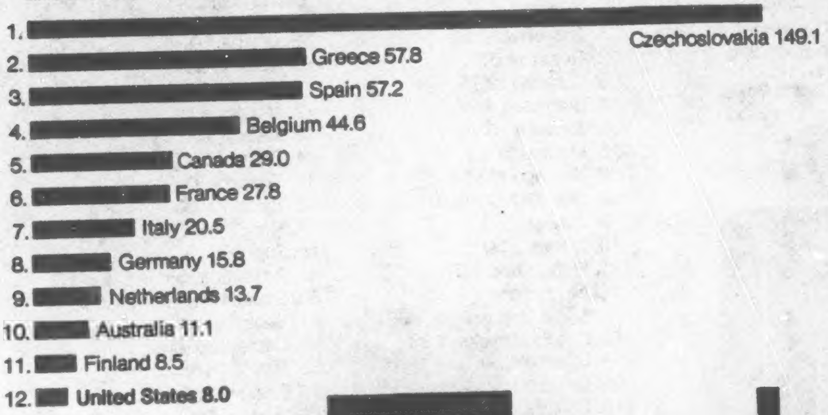
Appendix 4

Travel and Tourism
Government Affairs Council
An Affiliate of the
Travel Industry Association
of America

Developed Nations' Government Funding of USSTA's Counterpart Worldwide (1981)

Total Spending by
Developed Nations'
Tourism Organizations

The average funding among all countries of the world is over 4.5 times as much as USTTA's funding.



Source: World Tourism Organization and Travel and Tourism Government Affairs Council

Figures in millions U.S. Dollars

Appendix 5

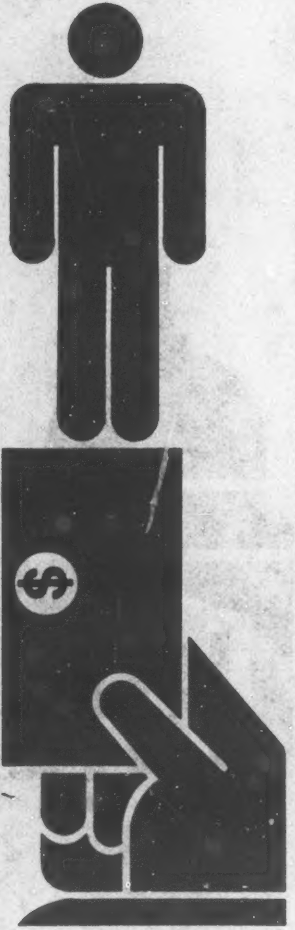
Travel and Tourism Government Affairs Council
An Affiliate of the Travel Industry Association of America

Promotion Spending Worldwide

The average increase in promotional spending in 1981 over 1980 by governments worldwide was 39%.

The average for all countries worldwide is almost 99 times greater than U.S. government promotional spending on a per capita basis.

National Government Promotion Spending Worldwide on a Per Capita Basis (1981)



1. Bahamas 62.56
2. Guam 14.57
3. Curacao 12.76
4. Botswana 9.36
5. Jamaica 5.78
6. Malta 5.61
7. Singapore 3.98
8. New Caladonia 3.38
9. Cyprus 2.56
10. Macao 2.50
11. Hong Kong 1.57
12. St. Vincent & The Grenadines 1.36
13. Czechoslovakia 1.33
14. Greece 1.30
15. Tonga 1.10
16. Canada .96
17. Finland .85
18. Luxembourg .84
19. Australia .67
20. Mauritius .65
21. Spain .57
22. Netherlands .46
23. Malaysia .28
24. Turkey .27
25. Hungary .25
26. Peru .24
27. Algeria .18
28. Kenya .18
29. Italy .17
30. Sri Lanka .16
31. Lesotho .16
32. Korea .15
33. Chile .13
34. Germany .13
35. Yugoslavia .12
36. Zambia .12
37. France .12
38. Senegal .12
39. Ghana .10
40. Colombia .09
41. Jordan .08
42. Morocco .07
43. Malawi .07
44. Congo .07
45. Equador .06
46. Tanzania .06
47. Honduras .06
48. Togo .05
49. Argentina .05
50. Papau New Guinea .04
51. Venezuela .04
52. Cameroon .04
53. Brazil .04
54. Thailand .03
55. Bolivia .03
56. **United States .03 (.025)**

Source: World Tourism Organization and Travel and Tourism Government Affairs Council

Figures in U.S. Dollars

Appendix 6

Travel and Tourism
Government Affairs Council
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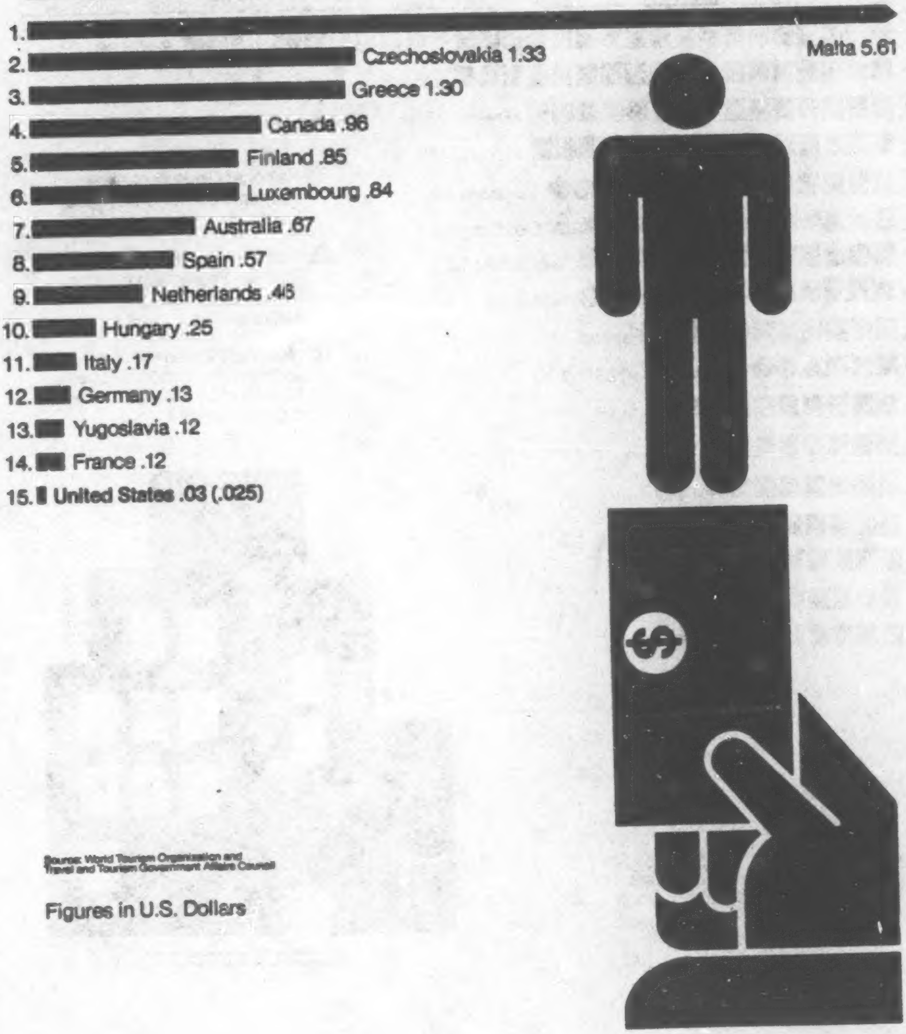
Travel Industry Association
of America

National Government Promotion Spending by Developed Nations of the World on a Per Capita Basis (1981)

Promotion Spending by Developed Nations

The average developed country in the world spends almost 36 times more than the U.S. on international promotion on a per capita basis.



Source: World Tourism Organization and Travel and Tourism Government Affairs Council

Figures in U.S. Dollars

Appendix 7

Travel and Tourism
Government Affairs Council
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Travel Industry Association
of America

National Government Tourism Promotion Offices Overseas (1981)

Government Overseas Tourism Offices

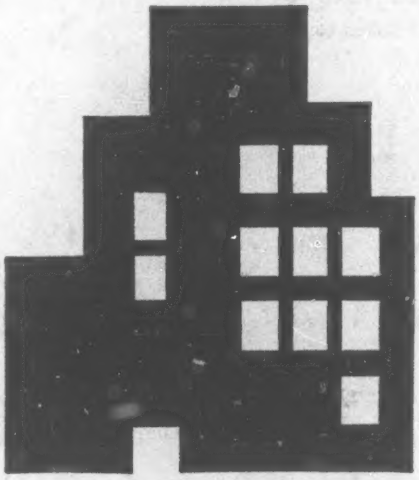
Of the 97 countries on which information is available, 79 maintain foreign offices, 74 have overseas public relations programs, and 75 conduct overseas advertising programs.

1. ■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■ Spain 30
2. ■■■■■■■■■■■■■■■■■■ Italy 18
3. ■■■■■■■■■■■■■■■ Greece 15
4. ■■■■■■■■■■■■■■■ Morocco 15
5. ■■■■■■■■▲▲▲●●● Malaysia 14
6. ■■■■■▲▲▲▲▲▲▲▲▲ Germany 14
7. ■■■■■■■■■■■■■ Yugoslavia 13
8. ■■■■■■■■▲▲●●● Kenya 13
9. ■■■■■■■■■▲ Finland 10
10. ■■■▲●●●●●● Sri Lanka 10
11. ■■■■■■■■■ Macao 9
12. ■■■■■■■■ Korea 8
13. ■■■■■■■ Norway 7
14. ■■■■■■■ Hong Kong 7
15. ■■■■■■■ Thailand 7
16. ■■■■■■ Singapore 6
17. ■■■■■■ United States 6

■ National Government Tourism Promotion Offices Overseas

▲ National Government Tourism Promotion Offices Managed by National Airlines

● National Government Tourism Promotion Offices Managed by Marketing Firms & Other Agents



Source: World Tourism Organization and Travel and Tourism Government Affairs Council

Overseas Promotion Functions
Assigned to Diplomatic Missions
Are Not Included

Travel and Tourism
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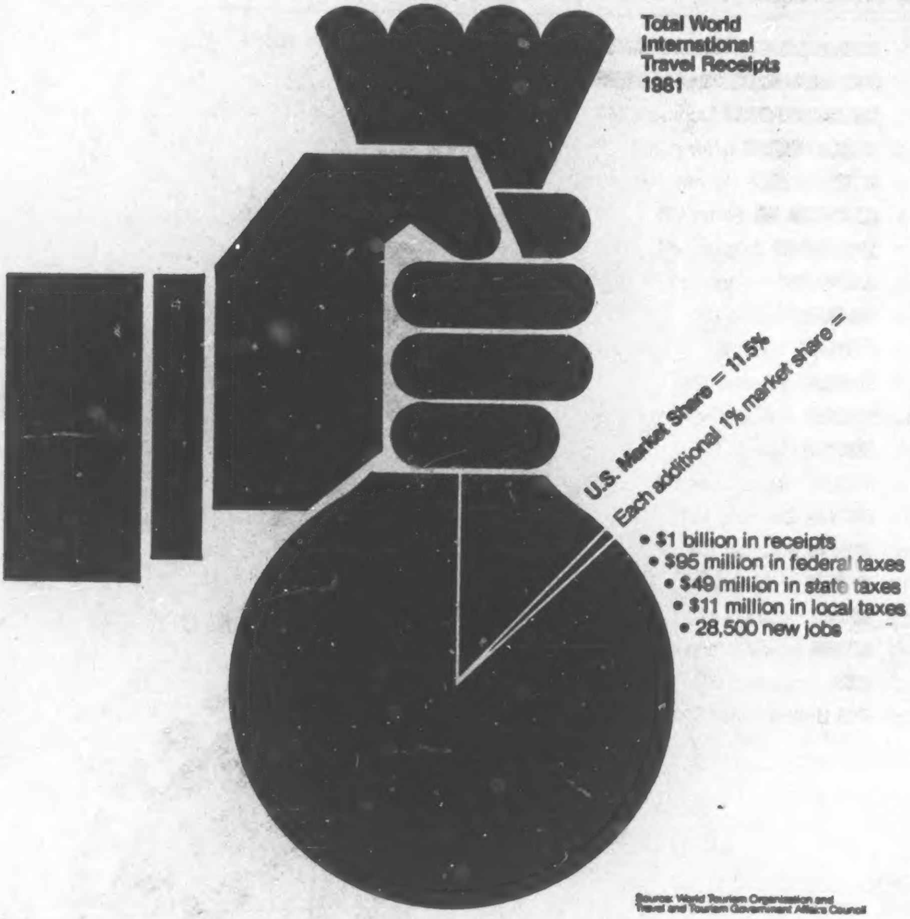
Travel Industry Association
of America

U.S. Market Share of International Travel Receipts

U.S. share of world tourism receipts has declined from 13% in 1976 to 10.6% in 1980, returning to 11.5% in 1981 due primarily to a weak U.S. dollar.



Total World International Travel Receipts 1981

Source: World Tourism Organization and Travel and Tourism Government Affairs Council

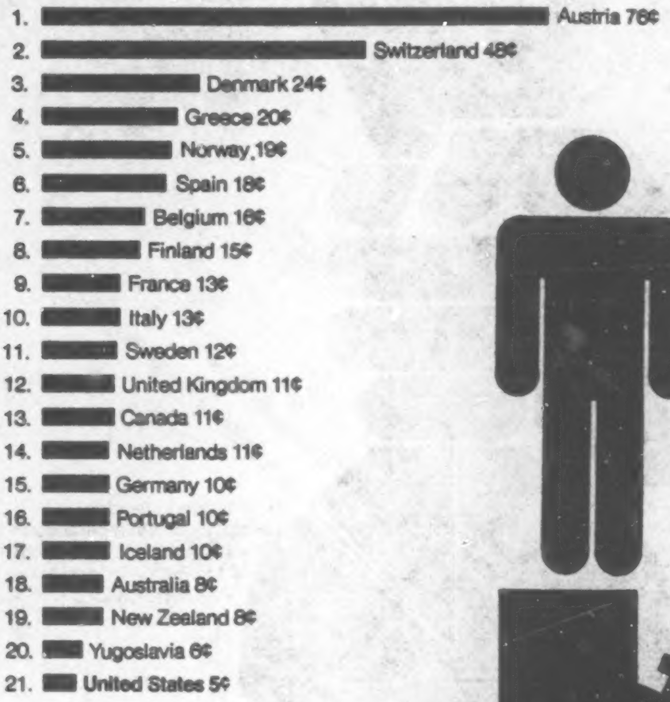
Appendix 9

Travel and Tourism
Government Affairs Council
An Affiliate of the
Travel Industry Association
of America

Developed Nations
International Tourism Receipts

Developed countries of the world receive an average of almost 3½ times as much in international travel receipts as the U.S. on a per capita basis.

Tourism Receipts Per Capita in Developed Nations (1981)



Source: World Tourism Organization and Travel and Tourism Government Affairs Council

Figures in U.S. Dollars

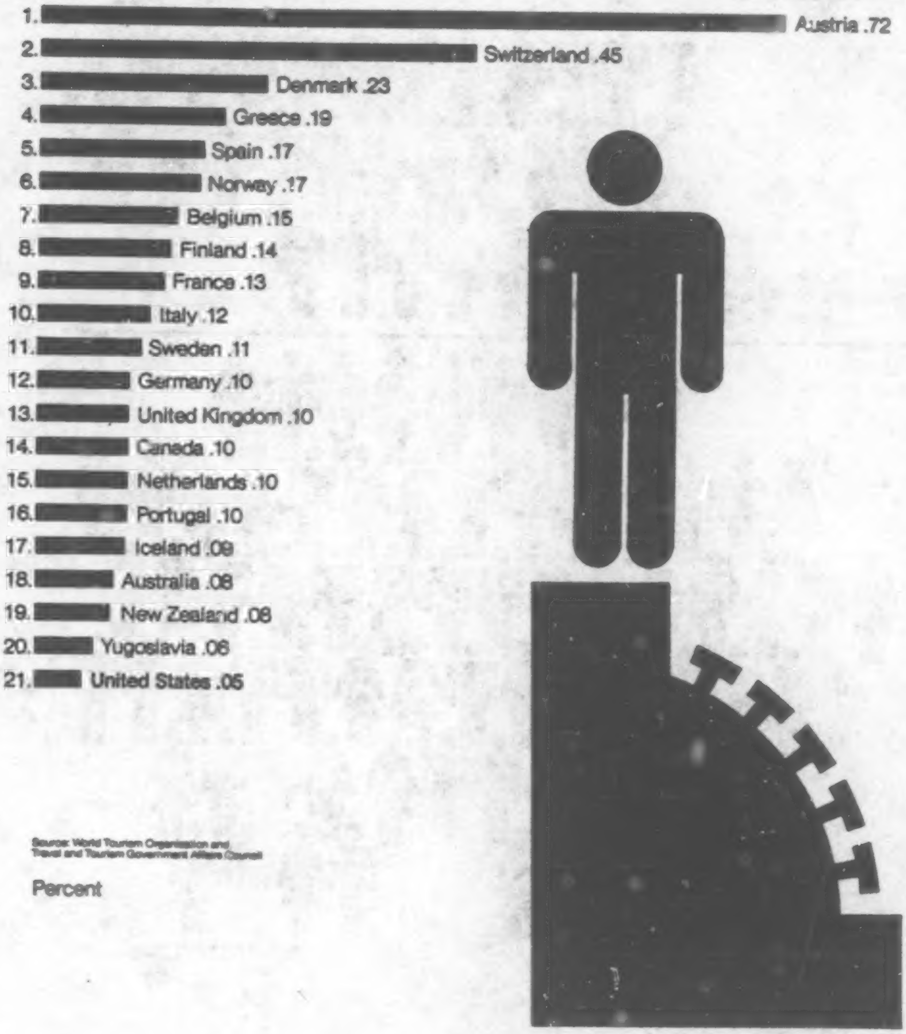
Appendix 10

Travel and Tourism Government Affairs Council
An Affiliate of the
Travel Industry Association
of America

Developed Nations Market Share of World Tourism Receipts

World Tourism Receipts Market Share per 1 Million Population for Developed Countries (1981)

The average developed country in the world receives over 3 times the market share received by the U.S. on a per capita basis.



Source: World Tourism Organization and Travel and Tourism Government Affairs Council

Percent

Appendix 11

Travel and Tourism
Government Affairs Council
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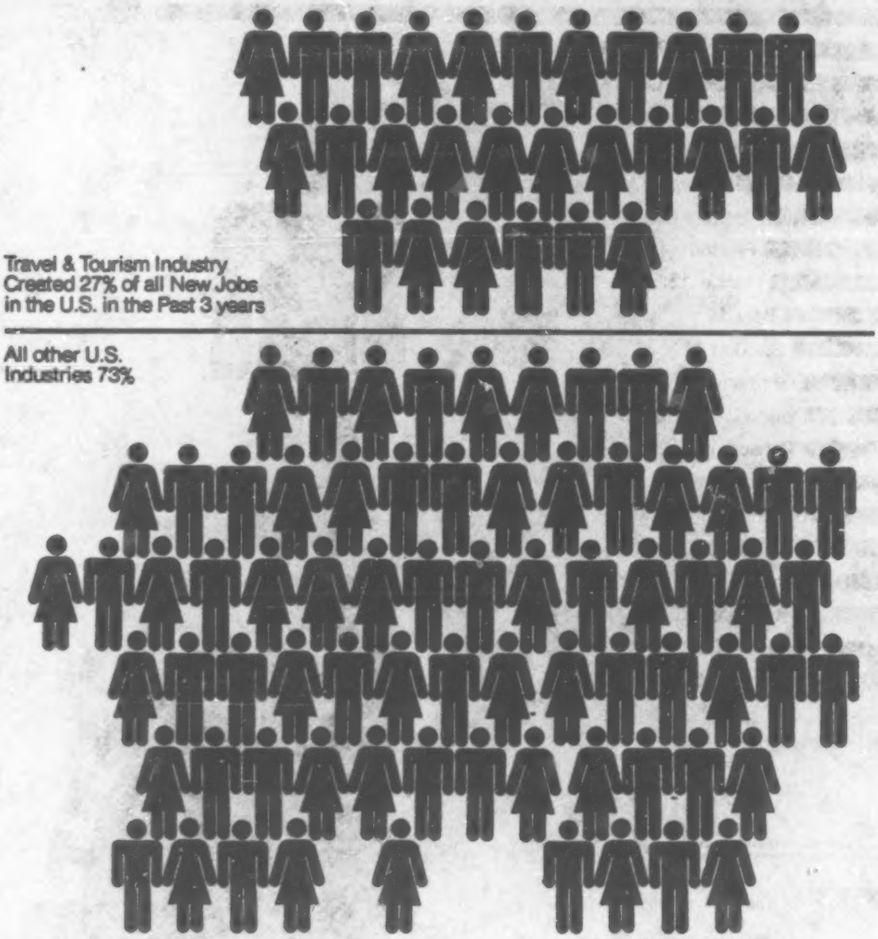
Travel Industry Association
of America

New Jobs Created
in the U.S. in the Past 3 Years
(1979, 1980 & 1981)

New Jobs Generated
by Travel and Tourism

Travel and Tourism created 179,000 new jobs in 1981 while unemployment generally was rapidly increasing.



Travel & Tourism Industry Created 27% of all New Jobs in the U.S. in the Past 3 years

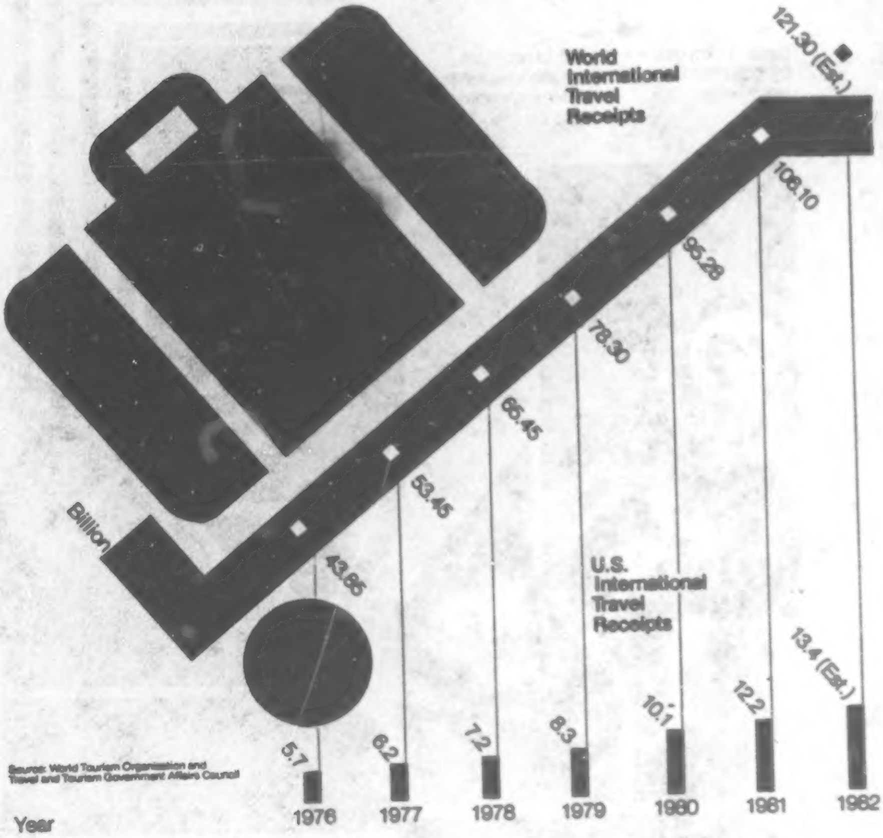
All other U.S. Industries 73%

Source: U.S. Travel Data Center and Travel and Tourism Government Affairs Council

Travel and Tourism Government Affairs Council
An Affiliate of the
Travel Industry Association
of America

Growth in International Travel Receipts

The size of the international travel market has grown at an average rate of 19.28% per year for the last 5 years. U.S. growth in international travel receipts has trailed this growth by 5% on average over the last 5 years.



Source: World Tourism Organization and Travel and Tourism Government Affairs Council

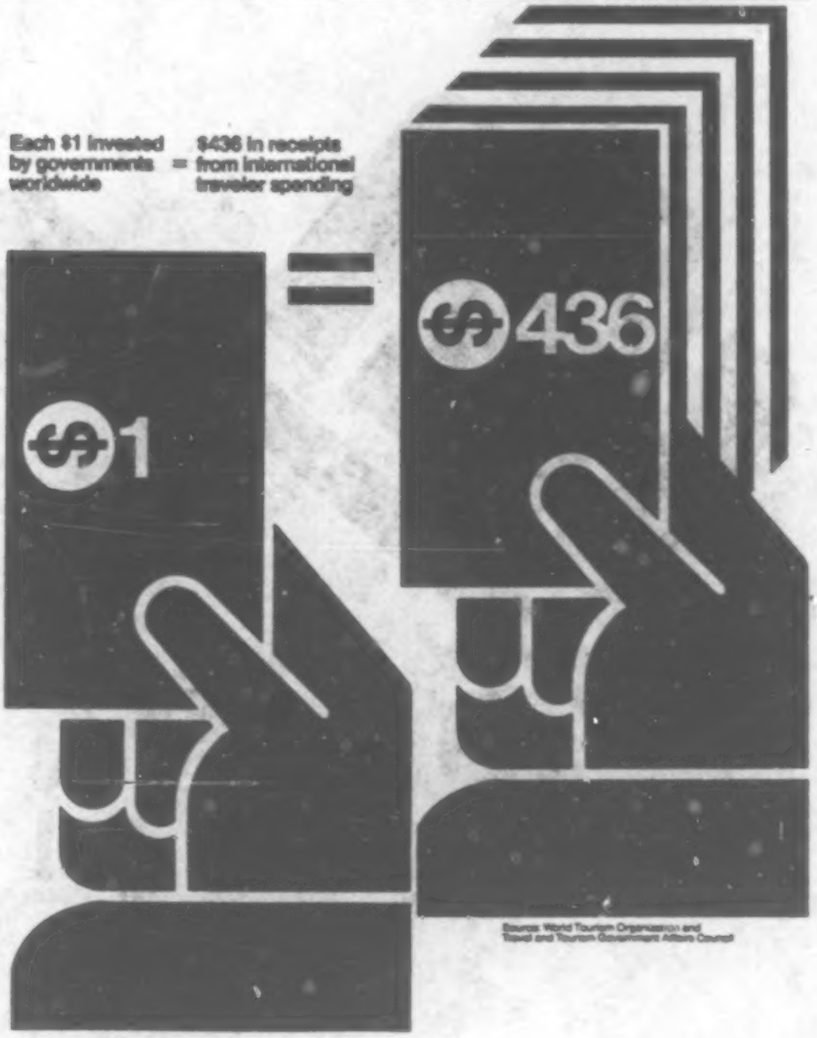
Appendix 13

**Travel and Tourism
Government Affairs Council**
An Affiliate of the
Travel Industry Association
of America

Government Spending & Tourism Receipts

Economies around the world are receiving $3,364 every second from international travel and tourism activity.

Each $1 invested by governments worldwide = $436 in receipts from international traveler spending



Source: World Tourism Organization and Travel and Tourism Government Affairs Council

APPENDIX 14

Principal Factors Driving the International Tourism Market

By far the most important factor in determining the number of international visitors traveling to a major tourism destination country is the relative strength or weakness of the destination country's currency relative to the currency in each tourism generating country. For example, when the U.S. dollar is weak compared to the currency of principal tourism generating countries, the number of foreign visitors arriving in the U.S. increases and, of course, U.S. receipts from international tourism increases as well. Conversely, when the U.S. dollar is strong, in relative terms, it is expensive to visit the U.S. and consequently demand is repressed. In most respects international travel and tourism operates like any other export product; competitive pricing improves sales in the international market place.

In addition, when the U.S. becomes a relative bargain compared to competing destination countries, the U.S. private sector increases promotional spending, with individual companies competing against each other to maintain market share in the expanding market. Since it is easier to sell a "bargain" than an expensive product, companies that normally don't promote in the international arena enter the competition as a matter of opportunity and withdraw promotional efforts when the U.S. is no longer a bargain. Likewise companies that continually rely on the international market will increase promotional efforts in order to maintain their market share or capitalize on the opportunity. This increased private sector promotional effort has a collateral effect of expanding further the overall demand to visit the U.S., but only marginally. This increased promotional effort by individual companies is not a substitute for generic promotion of the U.S. as a destination but does have a modest impact on the overall demand.

The second most important factor driving international visitor flows is the economic and political conditions in tourism generating countries and destination countries. For instance, the economic crisis in Mexico has substantially reduced the number of outbound tourists to the U.S. both because the U.S. suddenly became a more expensive destination based on relative currency values between the two countries and because of other internal economic dislocations than dampened travel demand. Due to a different situation, armed conflict in Iran, Iraq, Afganistan, etc. has dried up in-bound tourism for political reasons.

In a much more subtle way, but also significant, the "image" of a destination country affects tourism demand. For example, when the U.S. receives negative press in a generating country over a period of time, potential visitors' desire to travel to the U.S. will wane. Conversely, if the media in a generating country gives the U.S. friendly coverage over a period of time, demand for travel to the U.S. increases.

The third factor which determines levels of tourism traffic a destination country receives, is the effectiveness and quantity of international promotion conducted. While promotional efforts rarely cause quick and dramatic increases in international visitors to a destination country, they can and do positively impact the economic fortunes of a country. For example: Germany has increased its tourism promotion budget by 24% in the last 5 years. During this same period their international tourism receipts increased 106%. Sri Lanka has increased its tourism promotion budget 177% in the last 5 years while international tourism receipts increased 245%. France increased its tourism promotion budget by 156% in the last 5 years with international tourism receipts rising 164%. In the past 5 years Spain increased its tourism promotion budget by 83% while its receipts from international tourism rose 126%. Singapore has increased its tourism promotion budget by 28% while its international tourism receipts rose 213% in the 5 year period. Canada, (almost in lock-step with the U.S. in terms of exchange rates and economic and political conditions over the 5 year period, 1977-1981), increased its tourism promotion budget by 23% while its receipts from international tourism rose by 38%. While the effectiveness and quantity of these countries' international promotion may not be the sole cause of their respective increases in international tourism receipts, it is clearly a major contributing factor confirming the importance of national government promotion in a country's performance in the world tourism market.

If a country's currency strength/weakness relative to its generating markets remains stable and if the economic and political conditions in each destination and generating market country pair remain unchanged, then the effectiveness and quantity of the destination country's promotional program becomes the pre-eminent driving force in the marketplace. This will be true whether the destination country is relatively expensive or a relative bargain to visitors from generating countries. Tourism promotion is "controllable" in a policy and economic sense to a much greater degree than exchange rates or general economic and political conditions. Therefore, a country can, as a matter of choice, increase its earnings from international tourism by improving the effectiveness of its promotional activities and/or by increasing the quantity of the promotion it produces.

CONSORTIUM OF SOCIAL SCIENCE ASSOCIATIONS

STATEMENT OF DR. RICHARD SCHWARTZ, SYRACUSE UNIVERSITY LAW SCHOOL, REPRESENTING CONSORTIUM OF SOCIAL SCIENCE ASSOCIATIONS

PRIORITIES IN JUSTICE APPROPRIATIONS

Senator SPECTER. Let me return now to the second panel.

Thank you. I call at this time Dr. Richard Schwartz, Syracuse University Law School representing the Consortium of Social Science Associations.

Dr. Schwartz, welcome. We look forward to your testimony.

Mr. SCHWARTZ. Thank you, Senator. I am here, as you know, representing the Consortium of Social Science Associations, which is a group of some 150,000 social scientists who are represented by the chief executive officer of that association and its presidents.

In the course of considering priorities legislatively, the organization known as COSSA has decided that the appropriation that is being considered by the Congress for its continuing support of the National Institute of Justice and its neighbor, the Bureau of Justice Statistics within the Department of Justice represent important priorities.

They are important not necessarily because of the numbers, dollars that are associated with those appropriations but because of the task that is being done.

It is a task which we consider to be extremely important for providing the kind of continuing intelligence concerning the problems of the criminal justice system as it operates in the United States.

The $17.5 million, which is being considered as the figure at this point, is hardly enough considering the gravity of the problem of crime and the difficulties of organizing the criminal justice system in a way that coherently seeks to deal with crime problems while, at the same time, preserves principles of due process.

RESEARCH PROGRAMS

Research has proven in the past that important insights are able to be obtained through a variety of research methods, all attacking crucial problems within the criminal justice system.

These contributions can be drawn from a wide variety of fields, and indeed, it is imminently a problem that requires the cooperation of the various social sciences in order to make headway on it.

Thus, you can find studies that have been done by anthropologists to understand the milieu out of which crime arose; you can locate excellent studies done in the city of Philadelphia done by Martin Wolfgang and his associates on the longitudinal process by which criminality develops or is diverted.

You can consider from the economists the contributions made toward understanding the roots of organized crimes through what has been described by Shelling and others as the crime tariff; that is to say, the unintentional subsidization of illegal activity. You find the political scientists studying within the court system the problems and possibilities of a more effective organization for dealing at that level with problems of plea bargaining and the manner in which fairness can be maintained or increased within the criminal justice process.

STUDIES ON DETERRENCE

We have good studies, and we need better studies in the matter of deterrence. The Supreme Court of the United States has indicated its puzzlement over whether, in fact, sentences such as capital punishment would deter.

Social scientists, especially the political scientists, sociologists, and lawyers using experimental methods have dealt with problems of sentencing disparity and ways in which that can be overcome.

There are other problems of representation of clients which have been mandated by the Supreme Court and yet which have not been able to be accomplished effectively enough to serve the purposes of due process protections.

All of this constitutes efforts on the part of social scientists to provide some of the intelligence which would be necessary to shape the criminal justice system in a way that would permit it to achieve more effectively its major purposes of crime control and maintenance of due process protections.

That is essentially the message.

[The information follows:]

CONSORTIUM OF SOCIAL SCIENCE ASSOCIATIONS

PREPARED STATEMENT OF RICHARD D. SCHWARTZ

SYRACUSE UNIVERSITY COLLEGE OF LAW

Mr. Chairman, I have been asked by the Consortium of Social Science Associations (COSSA) to appear on its behalf at this hearing. As a sociologist and a law professor, I am a member of three of COSSA's constituent or affiliated organizations: the American Sociological Association, the Association of American Law Schools, and the Law and Society Association. COSSA is grateful for the opportunity, offered by the Senate Appropriations Committee, to be heard on the matter of funding for the National Institute of Justice. This written statement and my oral testimony constitute my best estimate of the consensus position of the Social Science Associations.

The Consortium of Social Science Associations was established in 1981 to draw together the perspectives of the various social sciences and to apply those perspectives to specific issues of social policy. It includes as members the following associations:

American Anthropological Association
American Economic Association
American Historical Association
American Political Science Association
American Psychological Association
American Sociological Association
American Statistical Association
Association of American Geographers
Association of American Law Schools
Linguistic Society of America

Membership in these associations and 17 affiliated organizations, comprise approximately 150,000 professionals in the social and behavioral sciences. Their work in teaching, research, and practice provides an important knowledge base concerning the operation of the economic, political, legal, and social institutions of this country. While no one can presume to speak for each and every one of these professionals, COSSA seeks to distill the knowledge of its members so that it can be available to aid the deliberations of the branches of government, especially the Congress.

On the question of appropriations for the National Institute of Justice, COSSA affirms its vigorous support for a renewal of funding for FY 1984. I understand that the figures under consideration for appropriation and authorization are $17.5 million and $30 million. It is clear that the lower of these two figures, at a minimum, is required to support the necessary vigorous drive to mobilize research efforts in the social sciences for continuing study of the problems of law and justice in America. If the social sciences are properly utilized, the higher figure could also be well spent.

Estimates of the costs of crime in America, most conservatively stated, add up to $30 billion per year. Research that can help to understand and eventually to control this problem would yield a high return. Is it realistic to suppose that research can have a salutary effect, in the long run, in helping this country to cope with crime and with related problems in the justice system? COSSA affirms its conviction that such results can flow from a well-shaped program of research.

Each of the disciplines represented by COSSA has contributed to an understanding of our system of justice, its problems and its potentials. A few instances can be mentioned here by way of illustration.

1. Research on sentencing has helped to describe sentence disparities and to explore

due process and rehabilitation consequences of wide, otherwise unexplained disparity. Efforts to deal with the problem through sentencing guideline statutes are now being studied in several states.

2. Representation of indigent clients, such as criminal defendants and civil plaintiffs, have been studied in the effort to determine how these legal services -- constitutionally mandated in criminal cases -- can be most effectively organized.
3. Deterrent effects of sanctions have been studied, particularly in the capital punishment area, with widely disparate results. Further research is needed in this area to reconcile disparate findings by scholars using economic and sociological methods.
4. Anthropological field studies have helped to explain relevant structures including organized crime, repeat offenders, receivers of stolen goods, and white collar crime.
5. Economic analysis of the "crime tariff" has opened up a promising line of inquiry toward undercutting the economic basis on which organized crime rests.
6. Police-community relations have been studied, revealing useful ways for converting what is often an antagonistic relationship into a mutually supportive one.
7. Longitudinal studies have opened up a promising method for understanding the origins of crime and suggesting ways of intervening that convert otherwise harmful peer pressure into a means for overcoming criminal tendencies.
8. Organizational studies of the courts have helped

to show how juries and judges time can be used more efficiently. Also communication between judges and juries has been studied in the effort to clarify instructions.

This list could be expanded to cover a wide range of promising studies already carried out.

The National Institute of Justice should be the primary instrument of national policy in encouraging research of this nature. To do so effectively, it must be properly organized as well as adequately supported. Its relations with the community of researchers must be shaped in a manner that ensures a continuing flow of high quality, cumulative research utilizing the best knowledge of the social sciences.

On the organization of research, I had occasion last month to testify before a House Subcommittee considering the reauthorization of the National Institute of Justice. Although this Committee is concerned with a narrower question, I believe that the organizational question bears on the matter of appropriations. Accordingly, Mr. Chairman, I would like with your permission to attach as an appendix to this statement, my recent testimony to the House on these broader organizational concerns.

I would of course be glad to answer any questions that the Committee wishes to raise. And I thank you again on behalf of COSSA and on my own behalf for the opportunity to be heard on this important matter.

Comments on the Reauthorization of the National Institute of Justice

Reauthorization of the National Institute of Justice provides an opportunity to reconsider the purposes of the Institute and to comment on the adequacy with which these purposes are being achieved. I am grateful to the Committee for inviting me to join in public discussion of these matters.

Effective research on criminal justice can benefit the entire society. It can help to formulate crucial questions of policy for the criminal justice system and can help to gather the information needed to answer these questions. To attain these ends, it is reasonable to authorize an annual expenditure of $30 million for the Institute and $25 million for the Bureau of Justice Statistics. If these two units use their resources well, the value to the society can far exceed the amount of these allocations.

The important point is that the resources must be well used. On the occasion of reauthorization, it is appropriate to ask what kind of purposes these resources are supposed to serve. The legislative history provides a good basis for this inquiry.

In 1977, this Subcommittee -- together with the DISPAC Subcommittee of the Committee on Science and Technology -- held joint hearings on the Federal Role in Criminal Justice and Crime Research. Those hearings yielded extensive testimony on the need for a federal effort in justice research. It was forcefully pointed out, however, that such research must be independent from the day-to-day demands of law enforcement. Much of the testimony given at that time was informed by a detailed investigation of the research record of the National Institute of Law Enforcement and Criminal Justice (NILECJ). That organization, a branch of the Law Enforcement Assistance Administration (LEAA), had spent large amounts of money for research which was, in the judgment of expert appraisers, generally mediocre.

The diagnosis of the difficulty, put forward especially by the National Academy of Sciences' Committee on Law Enforcement and Criminal Justice, was primarily organizational. NILECJ was being used by LEAA to develop action programs that would directly reduce crime and immediately solve problems of criminal justice administration. Such outcomes, the evaluators said, are difficult to achieve. The question is how practical results can in the long run most effectively be ensured. If research is to make a significant contribution, they maintained, the research process must be at least partially insulated from day-to-day demands. It must be free to develop long-range programs without regard to their immediate payoff or their immediate policy implications.

The reasons for this conclusion are multiple and complex. They have been spelled out in detail in the National Academy of Sciences' 1977 Report Understanding Crime. For present purposes, a few of the most important considerations will suffice.

Good research requires time. It must be designed in advance, with close attention to avoiding flaws in method. Where methods are routine, as in the more advanced disciplines, the design phase may be shorter. In criminology and other social sciences, more attention to method is needed.

The design of research must be set up to leave the conclusion open. This criterion has been described by Karl Popper as "falsifiability." If empirical research is so designed that it can reach only one conclusion, it is not worth doing.

The results of research must cumulate. A single study is never sufficient to test a proposition or to support a policy. It is the pattern of research results from many related projects that justifies a conclusion. Moreover, such a pattern gains support if it results from the work of researchers whose initial orientations vary.

Research results cumulate best within a common conceptual framework or "paradigm." A paradigm for research requires substantial work, in which theoretical issues are developed in relation to empirical study. This means that theory is influenced by empirical results and empirical studies are designed to clarify and test theory.

To contribute to this process, studies must be designed with methodological precision and with theoretical sophistication. A study with both of these attributes is generally judged to be of high quality by knowledgeable researchers. The reliability of such peer judgments, especially when made independently, provides the best basis available to us for maintaining standards of high quality in research.

To ensure accuracy in the pattern of results at least some of the research should be carried out by scholars who are independent of the research institution. This practice helps to ensure against the danger, perceived and actual, that the results of research will consciously or unconsciously be influenced by the point of view of those who authorize and support the research.

When a research organization supports high quality research, independent researchers are attracted to its program. This permits the selection of excellent research projects. As the pool of researchers expands, the agency can undertake a sustained effort in a particular research direction -- while maintaining the quality of the research. This strategy can be facilitated by the use of Requests for Proposals (RFPs), issued by the agency. The drafting of RFPs to reflect and advance the state of the art is an important aspect of research administration.

The questions addressed in a research program of this kind can reflect current interests and long-range concerns. The National Institute of Justice has sometimes addressed such questions. In the area of career criminality, for example, it has attracted research of high quality addressed to an enduring question that needs urgent attention. Its record in other areas has not been so impressive.

The recent research report on the exclusionary rule, for example, does not in my opinion include a satisfactory formulation of the policy issue at which the research seems to be aimed -- nor a satisfactory method for dealing with that issue. The exclusionary rule seeks to reconcile due process rights with crime control requirements. In studying only the rate of dismissals, the research concentrates solely on the crime control objective. A more basic question is whether and how police practice that adheres to Fourth Amendment requirements can be as effective (or more effective) in handling drug traffic as can illegal police practice. To answer that question, it would be necessary to compare jurisdictions that vary in their actual adherence to Constitutional standards. Comparative studies of that kind should also gather more extensive, better validated data than those presented in this research report.

In the long run, the selection of high quality, cumulative research should qualify the Institute to play a leading role in probing the most fundamental issues in the field of criminal justice. We need to examine more systematically the uses of the criminal sanction. Criminal law appears to work best and to gain greatest support when it focuses on crimes that are widely condemned as reprehensible. Research can help us to identify the most effective uses -- as well as the limits -- of the criminal sanction. Where criminal law is not the most effective device, as apparently in victimless crimes, research can help to locate alternative means for dealing with the problem. Where it is the most effective way, research can make criminal law more effective and more equitable by analyzing the barriers to efficient enforcement and finding ways to overcome these barriers while preserving Constitutional rights.

These suggestions assume that crime can be more fairly and effectively controlled with the aid of systematic knowledge. To achieve this end, we need a program that reaches beyond the day-to-day concerns to the larger questions. It must address these through high quality, objective, cumulative research. Whether this task can best be done by the National Institute of Justice, as presently constituted, is a difficult question. Whatever changes are made, however, should be in the direction of greater independence from immediate policy concerns, with more attention paid to the long-range issues that are fundamental to the operation of the system.

RECESS

Senator SPECTER. Thank you very much, Dr. Schwartz. We very much appreciate your testimony.

There is a quorum call. I am just going to be gone for a minute or two, and I shall return. So we will adjourn.

[Brief recess.]

THE ENVIRONMENTAL FUND

FEDERATION FOR AMERICAN IMMIGRATION REFORM

STATEMENT OF THOMAS McMAHON, EXECUTIVE DIRECTOR, THE ENVIRONMENTAL FUND

ACCOMPANIED BY:

ROGER CONNER, EXECUTIVE DIRECTOR, FEDERATION FOR AMERICAN IMMIGRATION REFORM

DESCRIPTION OF ENVIRONMENTAL FUND

Senator SPECTER. We shall reconvene at this point and return to the testimony on INS and Border Patrol.

We welcome at this time Mr. Thomas McMahon, executive director of the Environmental Fund and Mr. Roger Conner, executive director, Federation for American Immigration Reform.

Mr. McMAHON. Mr. Chairman, I am Thomas F. McMahon, executive director of the Environmental Fund in Washington. I would like to express my thanks to the committee for this opportunity to submit testimony on the factor that makes the INS project fiscally alive and well.

The Environmental Fund is a nonprofit foundation that studies the impacts of U.S. population size and growth on our economy, natural resource base, and environment.

The Fund is unique among population environmental organizations because its major objective is to persuade the United States to adopt a population policy that will adjust the number of people to a level that will enable us to preserve our natural resources and stop damaging our environment.

The Environmental Fund focuses on immigration because our studies show that now immigration is the major determination of the size of America's population in the future.

In fact, immigration of both legal and illegal accounts for nearly half of the U.S. population growth today. Our computer studies show that U.S. population of 226 million in 1980 will grow to 279 million by the turn of the century and to 336 million by the year 2030 if current trends continue.

First, if immigration were reduced to 500,000 per year and if reasonably enforced, the U.S. population would increase by another 16 million people by the year 2000 or the equivalent of another New York, Chicago, Los Angeles, Philadelphia, and Houston.

That is in just 16 years. This is an approximation of what will occur if the current Simpson version of the immigration reform bill is enacted into law and is effectively enforced.

Second, there is a need for adequate enforcement that I wish to underscore this afternoon since any successful immigration control measure will also depend on funding. From the standpoint of national sovereignty, the concern over the Nation's unemployment and Federal deficits, it is imperative that the maximum funds possible be appropriated so as to effectively carry out the monumental task of controlling the U.S. border.

REQUESTED FUNDING

Senator **SPECTER**. How much would you like to see funded?

Mr. **McMAHON**. I will tell you right now: We would like to see the Congress appropriate $742 billion as was passed in——

Senator **SPECTER**. Billion or million?

Mr. **McMAHON**. Million, excuse me; million dollars.

Sometimes those zeros escape me—which would—and also add $35 million to this fiscal year 1983 budget.

Senator **SPECTER**. What would that do for us, specifically, in law enforcement?

Mr. **McMAHON**. What that would do for us would be to insure that the border with Mexico would be properly enforced; it would increase the number of INS border patrol; and it would also make sure that if some of the legislation that is pending in the Congress today was passed, that it would be properly enforced, because this is going to be a monumental task if the Simpson bill is passed this year.

This is some $249 million above the administration's fiscal year 1984 request. We think this is a very important part of the appropriations for this year.

We hope that the committee would seriously consider this request over what the administration has asked for.

Senator **SPECTER**. Thank you very much, Mr. McMahon.

[The prepared statement of Thomas McMahon follows:]

THE ENVIRONMENTAL FUND

PREPARED STATEMENT OF THOMAS F. MCMAHON
EXECUTIVE DIRECTOR

I am Tom McMahon, Executive Director of The Environmental Fund, Washington, D.C. I would like to express my thanks to the Committee for this opportunity to submit testimony on the Fiscal Year 1984 Appropriations Bill for the Departments of Commerce, Justice, State, the Judiciary and related agencies.

The Environmental Fund was established ten years ago and has grown to become a public foundation with membership throughout the U.S. The Environmental Fund's mission is to study the impact of U.S. population size and growth on our natural resource base, environment and economy. We are unique among population environmental organizations because our work is focused on one objective -- the establishment of an effective U.S. population policy that will keep the numbers of people in our country in balance with our natural resource base and our environment. We alert government and the private sector to the causes of population growth and warn them of the consequences that uncontrolled growth will have on the quality of life in America.

THE IMPORTANCE OF IMMIGRATION CONTROL

Right now, we focus on immigration because our studies show that it is a major determinant of the size of America's population in the future. In fact, currently immigration, which is fueled in large measure by illegal immigration, accounts for nearly half the U.S. population growth. If current fertility and mortality trends continue, by the year 2025 all U.S. population growth will result from post-1980 immigrants and their descendants.

TEF computer projections indicate that the 1980 U.S. population of 226 million will grow to 279 million by the turn of the century and to 336 million by the year 2030 assuming a net annual immigration level of 1.2

million. In our view this is an approximation of the current situation. If net annual immigration were reduced to 500,000, the population of the U.S. will be 263 million by the year 2000 and 291 million by the year 2030. This approximates what we believe will occur if the immigration reform bill (1) is enacted into law with a ceiling and, (2) is effectively enforced. (see appendix, table 1 & explanatory notes.)

It is this second point, the need for adequate enforcement, that I wish to underscore this morning, since any successful immigration control measure will also depend on funding.

From the standpoint of national sovereignty, to concern over the nation's unemployment and federal deficits, it is imperative that the Immigration and Naturalization Service be allocated the maximum funds possible so as to effectively carry out the monumental task of controlling U.S. borders.

During the first few months of this year, the print and electronic media have widely reported on the unprecedented levels of illegal crossings occurring on our 1933 mile southern border with Mexico. This massive influx, I should add, precedes what is regarded to be the peak flow period, the spring months.

What is the engine driving this problem?

THE "PUSH" FACTORS

Mr. Chairman, I would like to call your attention to the very serious "push" factors of overpopulation, unemployment and poverty that motivate people in the less developed countries to immigrate illegally and play a great role in America's immigration problem.

The Environmental Fund has compiled population, labor force and new job requirements data for the world's less developed countries. Based on these statistics we have run computer projections that indicate the staggering magnitude of the "push" factors.

The 1980 combined population of the LDC's was 2.3 billion and will grow to 3.6 billion by the year 2000 and to 5.6 billion by 2030. (appendix, table 4.) These numbers are based on U.N. statistics that take into account an optimistic assessment of reduced fertility in the future. The labor force of the LDC's in 1980 stood at 843 million. By the year 2000 this number will nearly double to 1.43 billion and will more than triple by the year 2030, reaching 2.56 billion. (appendix, table 5.) In 1980, annual new job requirements for the LDC's stood at 22.7 million. By the year 2000, 37.5 million new jobs will be required annually to satisfy the demand for employment. This number will rise to 41.4 million annually by 2010. Only then will the annual number of new job requirements begin to decline and reach 28 million by the year 2030. (appendix, table 6.)

It is impossible to foresee the impact these staggering numbers represent for the future of our relations with the LDC's. But since Mexico sends the most immigrants to the U.S., it deserves closer scrutiny. I believe that I can speak to this subject with some authority since I have spent the greater part of my career working with development projects in Latin America and Mexico. For example, I lived with the Indians in the highlands of Guatemala and spent three years as the Director of Audiovisual Production for the Colombian Institute in Bogota. I also served for five years with the USAID and spent two-and-a-half years as the USAID Population Officer, in San Jose, Costa Rica.

I recently worked for two years in Mexico in collaboration with the Director of the Mexican Government's population program. Since I know this program firsthand, I thought it might be useful to summarize the carefully researched data which the Mexicans approved for a film I produced entitled "Mexico - The Year 2000." This film was reviewed at the highest levels of government, so its contents represent the official views of the Lopez Portillo Government. Looking at a country through the eyes of its own people is a good way to understand how they react to the world around them. This film has been shown throughout Mexico on television, in commercial movie theaters and in many rural areas.

Basically, three forces combine to make up the "push" factors that motivate Mexicans to seek work in the United States. The first is the pressure of overpopulation that has created massive migration to Mexico's cities and to the U.S. At the turn of the 20th century, Mexico had 14 million people. By 1960 it had more than doubled to 36 million. By 1980 the number had risen to 70 million. Taking into account the optimistic fertility decline predicted by the government, Mexico will count 116 million by the year 2000 and 185 million by 2030. (appendix, table 7.) In 1980 the Mexican labor force counted 20.3 million workers. About 40% of it was unemployed or underemployed. By the year 2000 the labor force will have grown by 77% to 35.9 million. By the year 2030 the total number of Mexicans in the labor force will be 65.6 million. (appendix, table 8.) TEF calculates that the annual new job requirements in 1980 was 651,730. By the year 2000 the annual number of jobs required will be 969,040 and by the year 2030 that number will have risen to 1,066,540. (appendix, table 9.)

Mexico exported grain in significant quantities before 1970. Since that time it has become a net importer of all the basic foodstuffs: corn for tortillas, wheat for bread, beans and rice as well as soybeans for cooking oil. During a period when Mexico's agricultural production grew by only 15%, the demand for these products grew by 50%. In short, without huge imports Mexico cannot feed its people.

Mexico has discovered a treasure that surpasses even its wildest hopes. But the new petroleum and natural gas industry cannot create the many new jobs needed to solve the unemployment problem. There was a time when Mexico thought that mechanized agriculture was the answer, but again agribusiness does not create jobs, it eliminates them. In 1978 it cost the equivalent of $8,000 U.S. dollars to create an agricultural job. Today the cost is much higher.

Mexico calculates that it must build 500,000 new houses annually to take care of the growing population that is filling its cities to overflowing. The cost for this was one hundred billion pesos annually in 1978 and has risen much higher today. The task of providing the minimum education for Mexico's growing numbers of young people is staggering. We can get some idea of the proportions of the problem when we realize that half of Mexico's people are children and teenagers below 16 years of age.

Today we read that Mexico's foreign debt totals $80 billion. Approximately $30 billion of this amount is owed to U.S. banks. Since the recent drop in the price of oil, there is little hope that Mexico will be able to meet its obligations. In 1980, a very good year, Mexico created just about enough jobs to take care of the people entering the job market. That means that the unemployment rate did not rise that year. During the past 12 months the Mexican economy lost 400,000 jobs which is a staggering blow to those who seek employment. In actual fact, Mexico's unemployment grew by more than one million last year.

INS FUNDING AND BUDGET SAVINGS

A significant budget increase for the INS from a fiscal standpoint is, in TEF's view, wholly justified. Please consider the following analysis.

Most experts peg the annual flow of illegal immigrants to the U.S. at 500,000 to 1 million. Some, like myself, would say it's even higher, but let's assume the midpoint estimate of 750,000 for now. Mindful that most illegal aliens come to the U.S. to work, let us assume further and rather modestly, that 30% of the 750,000 illegal entrants actually displace legal residents in the workforce. This means that in just the current year, 225,000 Americans will lose their jobs because of illegal immigration. When factored with the 1979 CBO estimate of $7,000 in transfer payments per unemployed worker, you see that the cost to the U.S. Treasury is $1.57 billion for one year. This large outlay is more than twice the INS budget request for FY '84. Illegal immigration has gone on for many years, though, and given today's unprecedented federal budget deficits and persistently high unemployment, one cannot ignore the question: to what extent do undocumented aliens take jobs away from U.S. resiidents in the labor force, and how much does this cost the U.S. taxpayer? If we assume that there are four million illegal aliens working in the U.S. and 30% of them currently displace legal residents, then this results in 1.2 million Americans being out of work. TEF calculates that this costs the taxpayer $8.4 billion in annual transfer payments. (For a more detailed explanation and analysis, see appendix, table 3.)

Therefore, to the extent that increased INS funding and manpower can stem the tide of illegal immigrants, which in turn will help alleviate the serious problem of job displacement, the federal government will realize tremendous savings in the form of decreased transfer payments and increased employment.

The problem of job displacement resulting from illegal immigration should not be underestimated. The average wage of the 5,000 illegal aliens apprehended during Operation Jobs was $4.81, well above minimum wage. Moreover, last year, the proportion of aliens apprehended who were employed increased to 57% from 49% the previous year, and this was during the peak of the recession, when the numbers of unemployed Americans increased.

Mr. Jorge Bustamante, the Director General of the Center for Border Studies of Northern Mexico and a Mexican population expert, said last month in U.S. News & World Report, "In certain U.S. regions, it is an economic problem because Mexicans displace American workers." In an answer to another question regarding illegal immigrants from Mexico, he said, "Most workers have jobs but seek to improve income and standards of living. This is true in 81% of households we studied." Several recent studies on the question of job displacement reveal that legal residents of this country are being displaced in the workforce by illegal aliens in a wide range of occupations, including manufacturing, construction, services, retail, and heavy and light industry.

INS FUNDING IN FISCAL YEAR 1984

Although the Administration's FY '84 budget request for INS of $539 million represents an increase over the $496 million level of the previous fiscal year, it is my understanding that this proposed budget contains no funding for the hiring of new enforcement personnel on a permanent basis. While TEF supports the inclusion in this budget of $20 million for automated data processing and $10 million for a central records processing center, the absence of funding for new enforcement personnel, particularly in light of the enormous "push" factors described earlier, is, I believe, a serious omission.

I am aware that the Judiciary Committee voted last year to add 642 positions, mostly in the enforcement area, and $29 million to the INS budget. These modest additions have yet to be carried out but were deemed necessary last year regardless of the outcome of the Simpson-Mazzoli immigration reform bill.

In all likelihood, the Immigration Reform and Control Act of 1983, S. 529, will pass Congress this session and become law, thereby requiring further increased INS funding to implement a new legislative mandate. I understand that about $76 million will be needed by INS to implement agency plans under the employer sanctions provision. The legalization program - a provision, by the way, that TEF strongly opposes - is expected to cost $100 to $140 million in the first year. If Congress should approve amnesty the funds required should be provided.

I urge the Committee to approve funds in this legislation for increased enforcement which will be necessary in any case. Moreover, the Simpson-Mazzoli Bill, if enacted, will require additional funds for implementation. Since INS implementation plans are already in place, and due to the critical nature of the problem, I would urge the Chairman and the committee to provide funding in this appropriations bill. Moreover, during the past few weeks, both the House and Senate Immigration Subcommittees have authorized major increases in INS funding.

At a time when our own country is struggling to provide emergency jobs for Americans, I believe that we must be realistic and understand that there is very little that we can do in the form of foreign aid to change the pressures that create the "push" factors in the LDC's, at least during the next ten to fifteen years. Remember that all the young people who will be looking for jobs by the year 2000 have already been born.

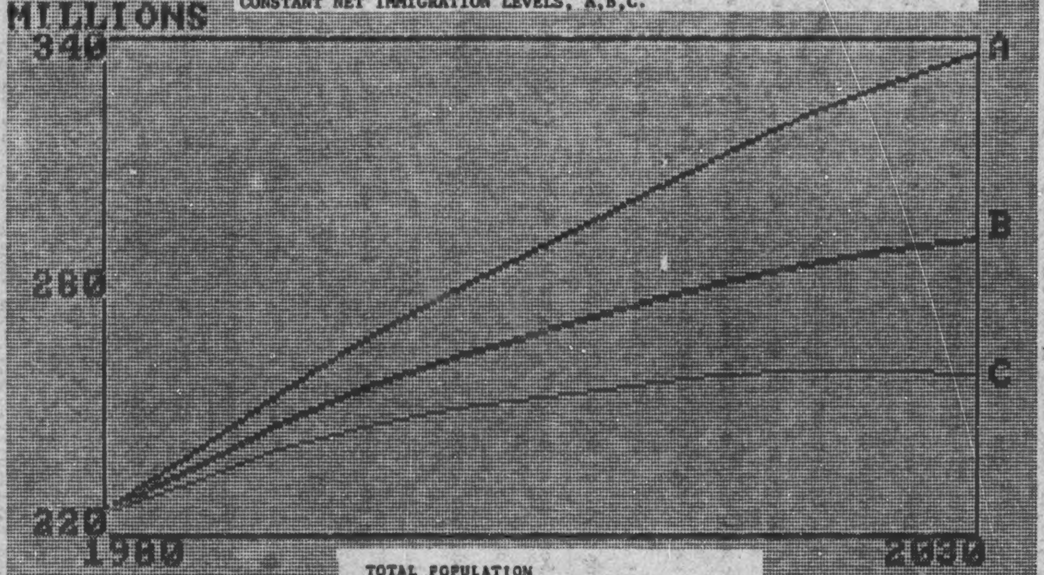
Assuming that Congress approves employer sanctions and adequate funding for enforcement, a strong signal will be sent to the world. That message will be: "If you want to emigrate to work in the U.S., you must do it legally."

I acknowledge the difficulty, Mr. Chairman, in requesting increased funding for an agency when the federal government is awash in red ink. However, the significant savings that would accrue to the Treasury, if illegal immigration, and consequently, job displacement, were greatly reduced, far outweigh, in my judgment, any increased expenditures today.

Thank you, Mr. Chairman.

TABLE 1

U.S. TOTAL POPULATION ASSUMING 1980 FERTILITY AND MORTALITY WITH THREE CONSTANT NET IMMIGRATION LEVELS, A,B,C.



TOTAL POPULATION
MILLIONS

YEAR	PROJECTION A	PROJECTION B	PROJECTION C
1980	226.51	226.51	226.51
1985	239.81	236.24	233.69
1990	254.26	246.77	241.42
1995	267.26	255.57	247.28
2000	278.91	262.83	251.34
2005	289.72	269.07	254.33
2010	300.55	275.21	257.1
2015	311.13	280.95	259.4
2020	320.9	285.78	260.69
2025	329.43	289.29	260.62
2030	336.44	291.29	259.03

A= NET 1.2 MILLION IMMIGRANTS ANNUALLY
B= NET 0.5 MILLION IMMIGRANTS ANNUALLY
C= NET OF 0.0 IMMIGRANTS ANNUALLY

* see notes on following page

Explanatory notes for table 1

Total U.S. Population (in millions)

Notes: There are three projections (using the cohort-component projection model) based on various assumptions. With the exception of the three different migration levels, all the other demographic variables are kept constant across all three projections. The three primary demographic variables and the data assumptions are as follows:

Fertility is being measured by Total Fertility Rates (TFR = the average number of children that would be born alive to a woman during her lifetime if she were to pass through all her child-bearing years conforming to the age-specific fertility rates of a given year.

QUIC DATA* assumes that for all 50 years the TFR will remain constant at its 1980 level of 1.86.

Mortality is being measured by life expectancy at birth (i.e., an estimate of the average number of additional years a person can expect to live, based on the age-specific death rates for a given year). Since this measure differs signficantly depending on a person's sex, QUIC DATA gives separate life expectancy values for males and females.

Males: 1980 = 69.5 years
2030 72.0 years

Females: 1980 = 77.2 years
2030 = 81.0 years

Migration is being measured in terms of net migration (i.e., the net effect of immigration and emigration of an area's population; this can be expressed as an increase (immigration) or a decrease (emigration)). QUIC DATA assumes that the amount of immigration to this country (i.e., the process of entering one country from another to take up permanent residence) will exceed that of emigration from this country (i.e., the process of leaving one country to take up residence in another one), thus the net effect is an increase.

A = net of 1.2 million immigrants annually
(what if current trends continued - close proximity)

B = net of 0.5 million immigrants annually
(what if Simpson/Mazzoli bill was passed - close proximity)

C = net of 0 immigrants annually (i.e., the amount of immigration and emigration is equal, thus the net effect is zero)

U.S.-related variables

The following eight variables can be changed; values given are used to run the various U.S. projections if no changes are made:

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*tm - The Environmental Fund (1982)

1. Total Fertility Rate

   - current value held constant for 50 years (1980-2030) at the 1979 level = 1.856

   source: National Center for Health Statistics (N.C.H.S.)

2. Age-Specific Fertility Rates (or Proportion of All Births to Women in Age Group)

   - current values held constant for 50 years (1980-2030) at the 1979 level

   source: N.C.H.S.

3. Life Expectancy for Males

   - current values increased over the 50 years (1980-2030) = 69.5 in 1980 (based on 1978 data), 72.0 in 2030

   sources: N.C.H.S. and Social Security Administration (S.S.A.)

4. Life Expectancy for Females

   - current values increased over the 50 years (1980-2030) = 77.2 in 1980 (based on 1978 data), 81.0 in 2030

   sources: N.C.H.S. and S.S.A.

5. Annual Number of Legal Immigrants

   - current values held constant for 50 years (1980-2030) = 700,000 for Projection A; 425,000 for Projection B; 0 for Projection C

   sources: Immigration & Naturalization Service (I.N.S.) and QUIC DATA

6. Annual Number of Illegal Immigrants

   - current values held constant for 50 years (1980-2030) = 500,000 for Projection A; 75,000 for Projection B; 0 for Projection C

7. Age Distribution for Legal Immigrants

   - current values held constant for 50 years (1980-2030) at the 1979 level

   source: Population Reference Bureau (P.R.B.)/Leon Bouvier

8. Age Distribution for Illegal Immigrants

   - current values held constant for 50 years (1980-2030) at the 1979 level

   source: Population Reference Bureau/Leon Bouvier

TABLE 2

PROPORTION OF POPULATION GROWTH DUE TO IMMIGRATION, 1980-2030

Year		Projection A*	Projection B**
1980:	RNI***	59%	59%
	Immigration	41	41
1985:	RNI	55	74
	Immigration	45	26
1990:	RNI	52	72
	Immigration	48	28
1995:	RNI	43	64
	Immigration	57	36
2000:	RNI	35	55
	Immigration	65	45
2005:	RNI	30	49
	Immigration	70	51
2010:	RNI	28	46
	Immigration	72	54
2015:	RNI	21	37
	Immigration	79	63
2020:	RNI	8	16
	Immigration	92	84
2025:	RNI	0	0
	Immigration	100	100
2030:	RNI	0	0
	Immigration	100	100

*assumes level of net immigration = 1.2 million immigrants per year

**assumes level of net immigration = 0.5 million immigrants per year

***RNI = rate of natural increase

Source: QUIC DATA projections

QUIC DATA is a trademark of The Environmental Fund.

TABLE 3

TEFdata:

Number 6 September, 1982

THE COSTS AND NUMBERS OF U.S. UNEMPLOYED DUE TO ILLEGAL IMMIGRATION

One of the most vexing issues in the current congressional debate on immigration reform is job displacement by illegal aliens and the resulting costs to the U.S. Treasury in the form of transfer payments (unemployment insurance, food stamps, AFDC payments, and other payments to the U.S. workers displaced.) In other words, to what extent do undocumented aliens take jobs away from U.S. residents in the labor force, and how much does this cost the U.S. taxpayer?

Since nobody knows how many illegal aliens are working here, or what percentage of these workers are displacing U.S. workers (rather than creating new jobs), we can only give a range of estimates. The table below offers three different assumptions as to the number of illegal alien workers, and five assumptions as to the rate at which they displace U.S. workers. One may match any set of these assumptions to see the resulting U.S. unemployment and the corresponding cost for transfer payments.

U.S. UNEMPLOYMENT AND TRANSFER PAYMENTS CAUSED BY ILLEGAL ALIENS

	2 million illegals		4 million illegals		6 million illegals	
Rate:*	Unemployed U.S. Workers	Payments (billions)	Unemployed U.S. Workers	Payments (billions)	Unemployed U.S. Workers	Payments (billions)
10%	200,000	$1.4	400,000	$2.8	600,000	$4.2
30%:	600,000	$4.2	1,200,000	$8.4	1,800,000	$12.6
50%:	1,000,000	$7.0	2,000,000	$14.0	3,000,000	$21.0
65%:	1,300,000	$9.1	2,600,000	$18.2	3,900,000	$27.3
80%:	1,600,000	$11.2	3,200,000	$22.4	4,800,000	$33.6

*Percentage of illegal workers who have taken jobs that would have been filled by U.S. workers.

If, as seems likely, the reality lies somewhere near the mid-range in the table, this means that the loss of control over immigration is costing the U.S. about $14 billion annually and has put 2 million Americans out of work. The number of unemployed is nearly 11 million.

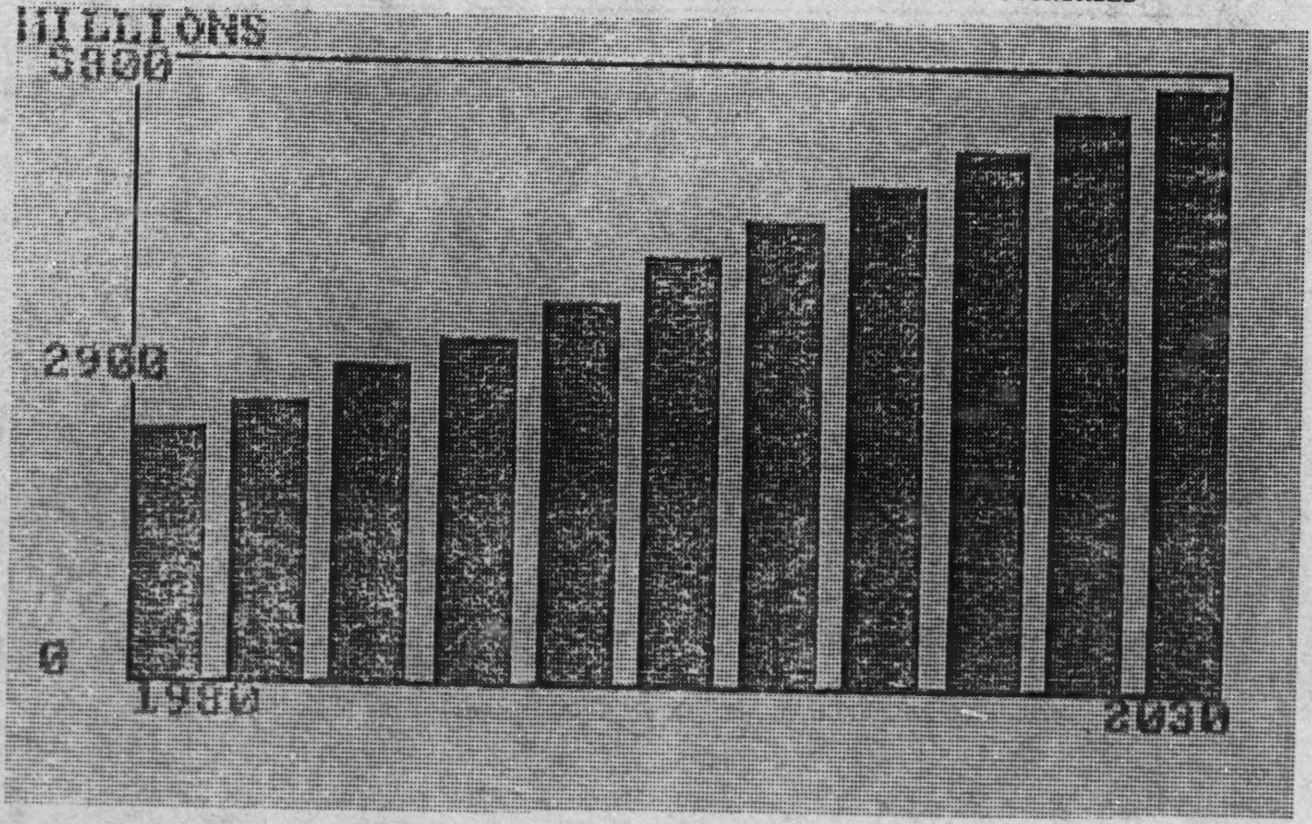
# # # # #

To help educate the public and policymakers, the Environmental Fund has developed a special computer program, "The Impact of Immigration on the U.S. Population" for QUIC DATA, its color graphic computer presentation. For more information contact TEF.*

**tm The Environmental Fund*

TABLE 4

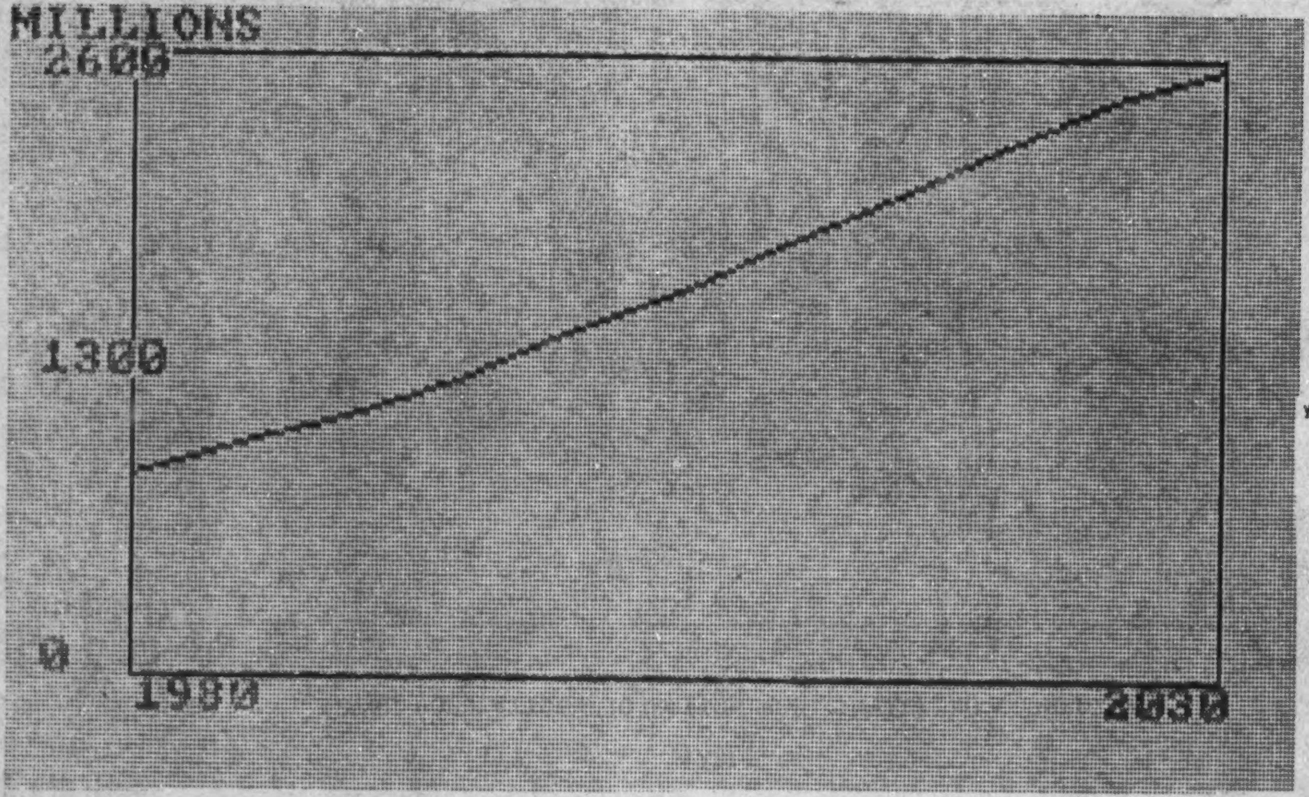
TOTAL POPULATION PROJECTION FOR DEVELOPING COUNTRIES



YEAR	
1980	2310
1985	2600
1990	2910
1995	3240
2000	3590
2005	3940
2010	4300
2015	4660
2020	5010
2025	5350
2030	5600

TABLE 5

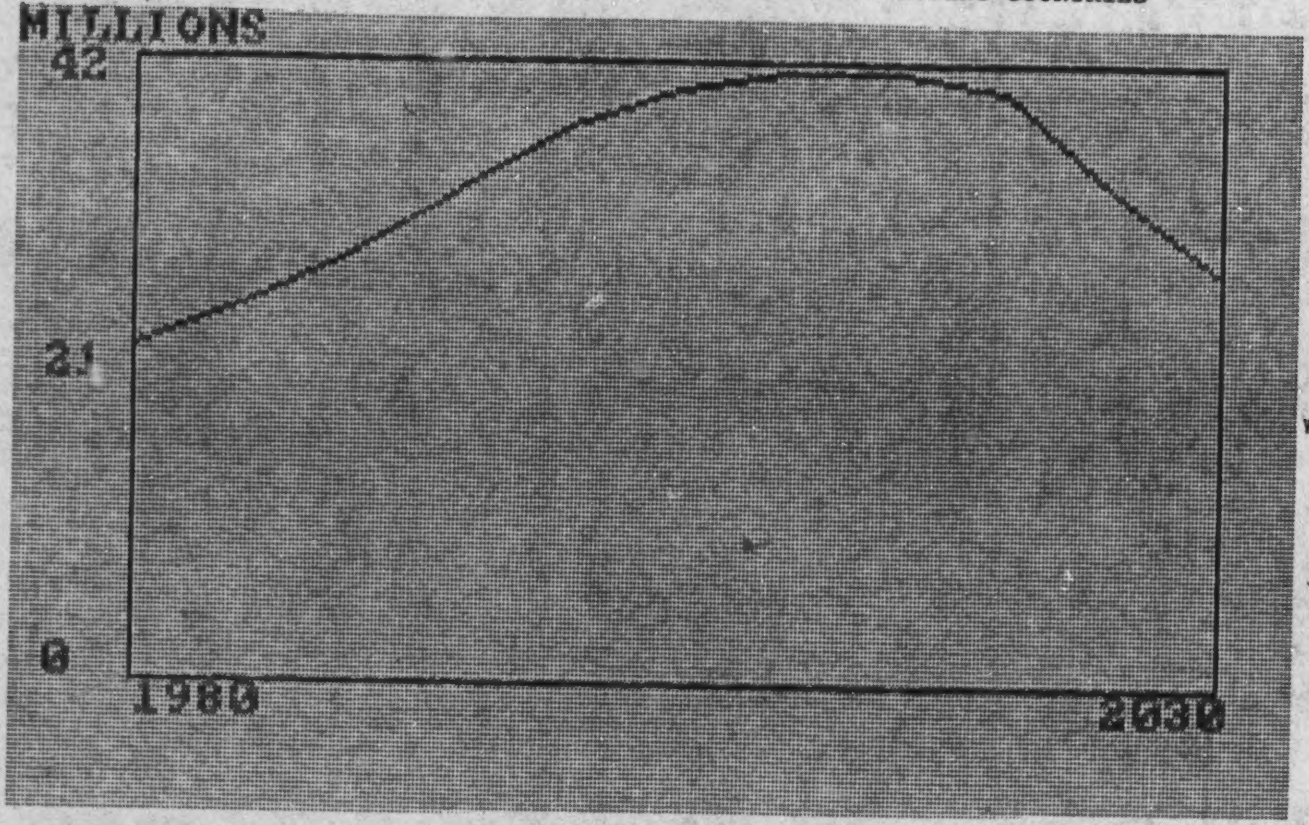
LABOR FORCE PROJECTION FOR DEVELOPING COUNTRIES



YEAR	
1980	843.5
1985	963.33
1990	1095.73
1995	1248.21
2000	1426.34
2005	1618.2
2010	1820.79
2015	2026.31
2020	2228.85
2025	2423.12
2030	2558.86

TABLE 6

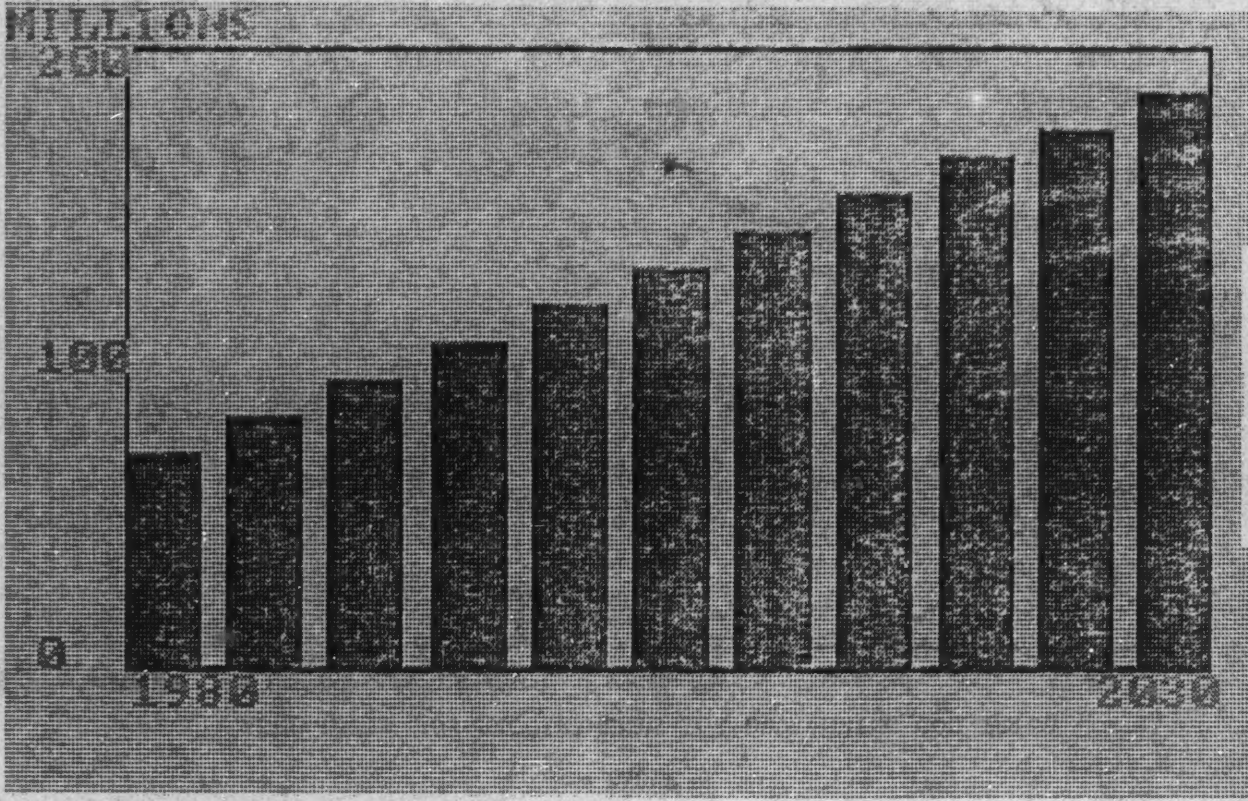
ANNUAL NEW JOB REQUIREMENTS FOR DEVELOPING COUNTRIES



YEAR	
1980	22.72
1985	25.54
1990	28.76
1995	33.35
2000	37.51
2005	40
2010	41.41
2015	41.39
2020	40.22
2025	33.69
2030	28.05

TABLE 7

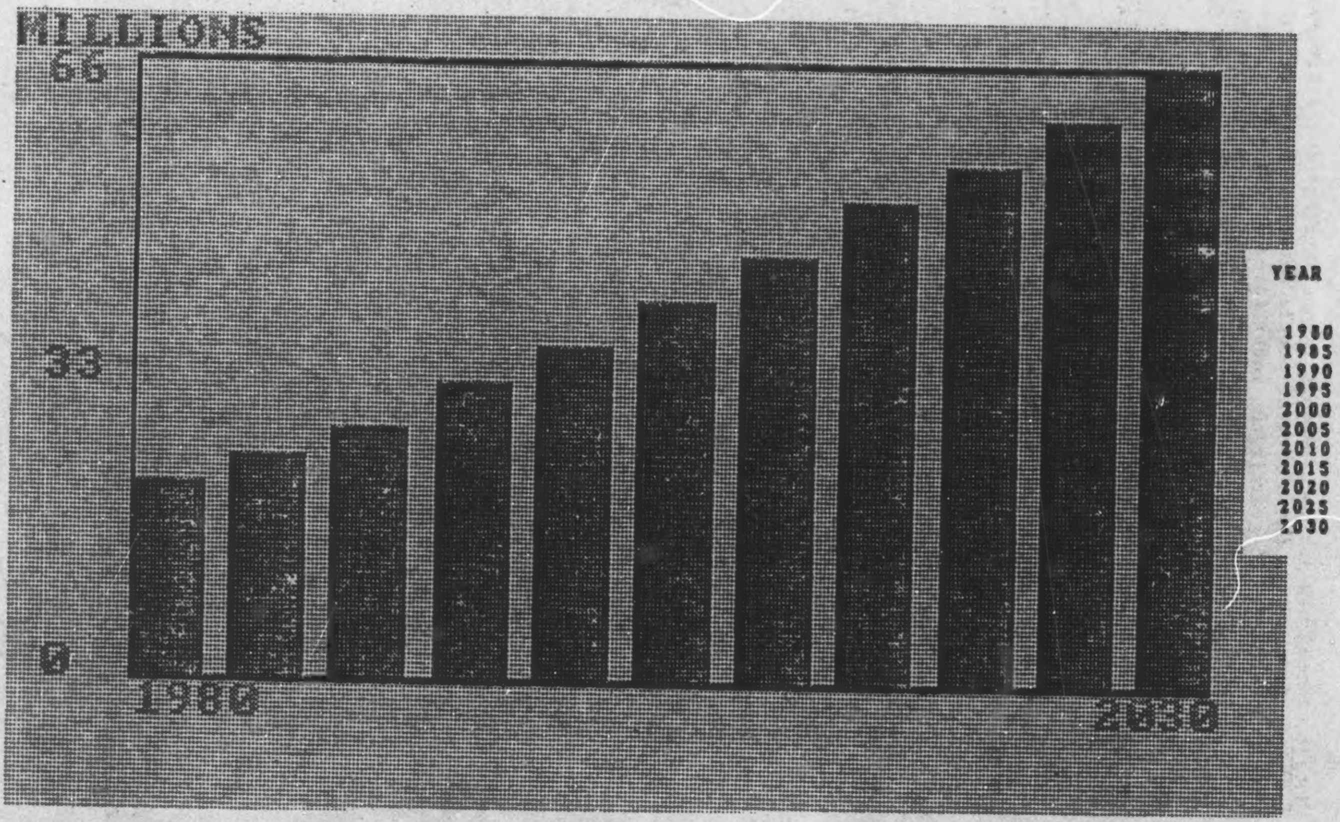
TOTAL POPULATION PROJECTION FOR MEXICO



YEAR	A
1980	70
1985	80
1990	92
1995	104
2000	116
2005	128
2010	140
2015	152
2020	163
2025	174
2030	185

TABLE 8

LABOR FORCE PROJECTION FOR MEXICO



YEAR	
1980	20.28
1985	23.32
1990	27.02
1995	31.25
2000	35.91
2005	40.79
2010	45.72
2015	50.76
2020	55.45
2025	60.48
2030	65.56

TABLE 9

Annual New Job Requirements for Mexico (in thousands)

Notes: Annual new job requirements (annual average for a five-year period) are based on the number of people entering the labor force (i.e., those aged 15 years), the labor force participation rate of both males and females, as well as the number of jobs that become available as people leave the labor force either because of death or retirement.

Source: United Nations' 1980 medium variant population projections as cited in United Nations, World Population Prospects as Assessed in 1980, (ST/ESA/SER.A/78), 1981, Table A-2.

ANNUAL NEW JOB REQ. FOR MEXICO
THOUSANDS

YEAR	
1980	651.73
1985	678.59
1990	803.48
1995	901.74
2000	969.84
2005	997.18
2010	1011.32
2015	988.87
2020	979.6
2025	1021.08
2030	1066.54

FEDERATION FOR AMERICAN IMMIGRATION REFORM

STATEMENT OF ROGER CONNER, EXECUTIVE DIRECTOR, FEDERATION FOR AMERICAN IMMIGRATION REFORM

POOR STATE OF IMMIGRATION POLICIES

Senator SPECTER. Mr. Conner.

Mr. CONNER. Thank you. First of all, thank you, Mr. Chairman, for taking time away from other matters to hear this oral testimony.

Our written testimony, of course, has been submitted.

Senator SPECTER. It will all be included formally in the record.

Mr. CONNER. I want to just emphasize a couple of high points in my testimony: That FAIR conducts the largest program of public research, public education on immigration in the United States.

We have studied the needs of the Immigration Service carefully, and it is no secret that the immigration policies of the United States are simply in collapse.

When the Attorney General of the chief law enforcement agency of our country says we have lost control of our borders; when editorial writers, some of the more foresighted people of our country all call around the country in an incredibly united voice for an increase in enforcement and for fundamental changes in our immigration laws, it is an indication that, we feel, Congress should respond to; that our immigration policies are in serious trouble.

As you know, the Congress responded last year with a Simpson-Mazzoli bill which almost passed and which was yesterday reported from the full Judiciary Committee of the Senate for Senate action.

We support this legislation strongly. We believe that 1983 could become the most important year in immigration policy in the last 30 years.

But while a great deal of attention has been focused on the Simpson-Mazzoli piece of legislation, unless this committee responds to this challenge by substantially increasing the appropriations for the Immigration Service from the $539 million request of the administration to our request of $813 million, unless the committee responds, the promise in the Simpson-Mazzoli bill cannot be fulfilled.

The money that we are seeking is for four things: First, to increase the border patrol by $79 million which will basically allow us to increase the number of border guards on any given shift by 50 percent.

Currently, as we sit here today, there are about 350 to 400 border patrolmen on duty on America's borders.

Senator SPECTER. Mr. Conner, why do you think that you are in a better position to evaluate this than the Justice Department, which is submitting the request for $113 million on border patrol?

You want to increase it by $79 million.

Mr. CONNER. Well, the Attorney General has stated that with the current level of funding and the current level of manpower that our borders are out of control and that we are apprehending maybe a third of those crossing our borders illegally.

This request will not allow the addition of a single border patrolman or fixed-wing aircraft or a single additional helicopter.

By the statement of the administration, borders are out of control now, and they will be out of control with the request. The——

Senator **Specter**. The Attorney General includes that with the new penalty provisions on employers there will be an enforcement mechanism, the total sum of which he believes to be adequate.

Mr. **Conner**. The administration, in its testimony before the Judiciary Committee, said that if Simpson-Mazzoli were passed, they would support an increased appropriation for the agency of $200 million which would include increased border patrol and increased funding for the implementation of employer sanctions.

Senator **Specter**. Did they say why they would recommend that increase only if the Simpson bill were passed?

Mr. **Conner**. That question was not asked, and in our view, that is why we feel that this request is actually in line with the policy of the Attorney General and the Justice Department.

EXISTENCE OF ENVIRONMENTAL FUND

Senator **Specter**. I am sorry to call the testimony to a close, but we have so many witnesses; I would just like to ask you each a question about your organizations: Mr. McMahon, how long has the Environmental Fund been in existence?

Mr. **McMahon**. Exactly 10 years.

Senator **Specter**. What is it composed of?

Mr. **McMahon**. It is a public membership organization with 3,000 members.

Senator **Specter**. How big of an executive staff do you have?

Mr. **McMahon**. We have 11 people.

Senator **Specter**. How about the Federation for American Immigration Reform?

Mr. **Conner**. We now have 100,000 people who joined one campaign or another, 10,000 of whom contributed funds to our organization. We have a professional and support staff of about 15 people at the moment.

Our newsletter has the largest circulation of any publication in the country on immigration.

Senator **Specter**. Thank you very much, gentlemen. I appreciate this very much.

[The prepared statement of Roger Conner follows:]

FEDERATION for AMERICAN IMMIGRATION REFORM

PREPARED STATEMENT OF ROGER CONNER

EXECUTIVE DIRECTOR

EXECUTIVE SUMMARY

FAIR believes that Fiscal Year 1984 will be the most important year in American immigration policy in over thirty years. We have an historic opportunity to stabilize our collapsing immigration policy and begin the difficult task of rebuilding respect, both in the United States and throughout the world, for American immigration laws.

To do so, however, requires immediate and forthright action by the Congress. In the FY 1984 appropriation, the Border Patrol and the Immigration and Naturalization Service must be given the resources needed to enforce our immigration laws at the border and in the interior of the country.

FAIR supports enactment of the Simpson-Mazzoli Immigration Reform and Control Act of 1983 (S.529/H.R.1510). But enactment of this bill alone is not enough. The INS and Border Patrol are now, and have been for too many years, operating with insufficient manpower and resources. The programs of the Simpson-Mazzoli bill cannot be expected to control illegal immigration unless Congress (1) appropriates sufficient funds for border enforcement, (2) appropriates sufficient funds for the INS to perform its service and enforcement responsibilities within the country, and (3) appropriates sufficient funds for implementation and operation of the programs contained in the Simpson-Mazzoli bill.

The Administration's FY 1984 request of $539 million for the INS and Border Patrol is woefully inadequate, and brings into serious question the Administration's commitment to bring our borders under control. With record numbers of illegal immigrants streaming across our southern border, the Administration's request includes not a single new Border Patrol agent. The National Border Patrol Council estimates that with present manpower levels the Border Patrol is so undermanned that it is able to apprehend only between 25% and 33% of all illegal immigrants crossing the border. This cannot be allowed to continue.

FAIR submits to the Appropriations Committee an alternative FY 1984 request of $813.8 million for the INS and Border Patrol. Unlike the Administration, FAIR includes in its request funding for the new programs in the Simpson-Mazzoli bill plus funding for a program of enhanced border enforcement. Specifically, the FAIR budget request starts with the $539 million requested by the Administration and adds the following:

Program	Number of New Personnel	Cost (in millions)
Enhanced Border Enforcement	1,517	$ 79.1
Employer Sanctions Enforcement (H.R.1510)	902	$ 53.4
Legalization Program (H.R.1510)	1,100	$140.0
Asylum Adjudication Reform (H.R.1510)	65	$ 2.3

The $140 million for the legalization program should be repaid to the Treasury as a result of fees collected from applicants for legalization.

Only by appropriating funds now for enhanced border enforcement and for the new Simpson-Mazzoli programs can we hope to prevent making our problem with illegal immigration worse in our effort to solve it. We cannot wait for enactment of the Simpson-Mazzoli bill to address the funding needs it will create. Funding for the Simpson-Mazzoli bill must be in place when that bill is signed into law. Waiting for subsequent enactment of a supplemental appropriations bill will guarantee an increased flow of illegal immigrants into our country. This is because the Simpson-Mazzoli bill contains a broad, generous, blanket amnesty for illegal immigrants who have been in this country since before 1980 (in the House version, H.R.1510, 1981 is the cut-off date).

Enactment of the legalization or amnesty program will result in more illegal immigrants seeking entry into our country. Passage of the Simpson-Mazzoli bill will be front page news around the world, and the promise of amnesty will be a powerful magnet drawing more illegal immigrants here. Either they will come to fraudulently apply and qualify for legalization, or they will come in the Hope that another amnesty will be granted in the future. For whatever reasons, they will come. Consequently, it is only prudent to have our borders more effectively enforced before we enact legalization. Otherwise our efforts to eliminate the underground illegal population in this country will only result in perpetuating it.

Current enforcement and service responsibilities of the INS and Border Patrol must be given increased funding, regardless of the Simpson-Mazzoli bill. For example, the need for more inspectors is becoming overwhelming. In 1982, about 410,000 of the illegal immigrants apprehended in the United States had entered the country through Ports of Entry. Nonetheless, immigration inspectors and other federal officials apprehended over 533,000 illegal immigrants in 1982 at Ports of Entry, but this represented an 18% decrease from 1981. The INS agrees that the decrease is in greatest measure due to the loss of immigration inspector positions.

The Simpson-Mazzoli bill proposes to add vast new program responsibilities to the INS and Border Patrol. In their current condition the INS and Border Patrol are too weak a foundation to build further programs upon. The foundation must be reinforced and rebuilt. This will take several years, but FAIR's FY 1984 budget recommendations represent a wise first year effort to achieve that goal.

We Have Lost Control of Our Borders

Last year, and again last month, the Attorney General testified before Congress that we have lost control of our borders. The National Border Patrol Council estimates that in 1965 the Border Patrol was able to apprehend between 90% and 95% of the immigrants crossing our border illegally. In the 17 years from 1965 to 1982, Border Patrol apprehensions have increased by an astounding 1,564%. Yet over the same period of time, the Border Patrol Council estimates that the Border Patrol is able to apprehend only between 25% and 33% of the immigrants crossing our border illegally.

During the last six months, the situation at our southern border has become even more distressing. Border Patrol apprehension figures are up dramatically all along the U.S.-Mexican border -- 30% above last year. Each month since August has produced the highest number of apprehensions for that month since at least 1953. These record high levels will continue until improvements in the Mexican economy are realized, and that is not expected for several years. Frankly, another -- the fourth -- devaluation of the Mexican peso is certainly possible in the months ahead.

Americans Need the Jobs

Most illegal immigrants come to this country for one reason -- to get a job. Despite the U. S. economy's recession, illegal immigrants continue to find work in amazingly large numbers. In many cases, this is because they will work at wages and under conditions below those set by the marketplace for American workers. The INS reported that in 1982 the proportion of illegal immigrants apprehended who were employed jumped from 49% to 57%; this was coupled with an 11.8% increase in interior apprehensions. During the five days of the INS's special Project Jobs, over 5,000 illegal immigrants were apprehended at worksites in nine cities. The average wage of those apprehended was $4.81 an hour. In Los Angeles and Chicago the average wage of apprehended illegal immigrants is over $5.00 an hour; in Denver it is over $6.00 an hour. It is a myth that illegal immigrants only do jobs American workers will not accept. Only 15% of the illegal immigrants in this country are believed to work in agriculture; 85% of illegal immigrants live in our urban centers. Many of them have jobs that American workers want and need. Control of illegal immigration can do more to help the 10.3% of the American workforce now unemployed than the "jobs bill" recently reported out by this committee and passed by the Congress.

Whenever we see an unemployed American, we see a personal tragedy; but we also see a cost to the federal government (because of reduced income tax revenues, payment of unemployment benefits, and later food stamps and welfare). In 1979 the Congressional Budget Office estimated that an unemployed worker costs the federal government $7,000 a year. By contrast it costs the federal government only $43.38 to make an arrest at the border, according to data of the Select Commission on Immigration and Refugee Policy. Surely it makes better sense to spend $43.38 several times at the border in order to avoid spending $7,000 once to an unemployed worker.

Immigration Reform Is Needed

The Congress is currently considering important immigration reform legislation; best known as the Simpson-Mazzoli bill, it is the Immigration Reform and Control Act of 1983 (S.529/H.R.1510). FAIR supports comprehensive reform of our immigration laws, and is working to make sure that this year, unlike last year, the Simpson-Mazzoli bill is enacted. Frankly, despite the failure of the House to pass this legislation in the waning hours of the 97th Congress, we believe most Members of Congress came to the conclusion that immigration reform is inevitable. We believe the Simpson-Mazzoli bill will be enacted this year.

Title I of the Simpson-Mazzoli bill contains a long overdue provision that is needed to control illegal immigration. Best known as employer sanctions, this title makes it illegal for employers to knowingly hire illegal immigrants. Its goal is to turn off the "jobs magnet" that attracts illegal immigrants to this country.

Unlike last year, the bill will also include specific authorizations for the new programs it will create. This is especially important for the employer sanctions provision. If employer sanctions are to be effective, they must be sufficiently enforced. In essence, this is the conclusion of a report issued last August by the GAO, after studying the effectiveness of employer sanctions in other countries. Without authorization and appropriations for enforcement activities, employer sanctions cannot hope to be effective in combating illegal immigration.

The Administration's FY 1984 Budget Request

The Administration's FY 1984 request of $539 million for the INS and Border Patrol is woefully inadequate, and brings into serious question the Administration's commitment to bring our borders under control. With record numbers of illegal immigrants streaming across our southern border, the Administration's request includes not a single new Border Patrol agent. The Administration's request is for the same number of enforcement personnel as last year, and that is fewer than in FY 1981. This status quo approach is inexcusable in light of the deteriorating situation on our borders.

In addition to the level of manpower provided, FAIR also disputes the Administration's budget request because it does not include funding for the programs contained in the Simpson-Mazzoli bill. To his credit the Attorney General did testify to the Senate Judiciary Committee last month that the Administration would support between $125 million and $200 million for the Simpson-Mazzoli bill in FY 1984, and we hope the Administration will formally amend its budget request in this regard. But FAIR urges the committee not to wait for the Administration; discussed below are careful assessments of the funding needs for the Simpson-Mazzoli bill, which we hope the committee will incorporate into the FY 1984 INS appropriation. We recognize that this committee does not normally appropriate funds for new programs until those programs have been authorized. However, it is not without precedence to do so, and FAIR believes it is absolutely vital that Congress dramatically demonstrate its resolve to overcome our immigration problems. We urge the committee to include funding for the Simpson-Mazzoli bill in the FY 1984 appropriations bill; these funds can be removed from the bill in conference committee if, at that time, enactment of the Simpson-Mazzoli bill appears unlikely.

FAIR does commend the Administration for including in its budget request $20 million for automated data processing. The INS has for too long been compromised by its lack of modern, efficient record keeping systems. The Commissioner can take justifiable pride in his efforts to bring the INS into the twentieth century in this regard.

FAIR believes that the Administration's budget request reflects too great a reliance on the American taxpayer for support of the INS. FAIR urges that serious consideration be given to increasing the use of user fees, especially for those who profit from international migration. Recently the INS has increased traditional fees for petitions and the like, just as the Passport Office has more than tripled its fee (to citizens) for passports. But these increases are simply higher levies on a traditional fee-paying population.

What we need to do is to see to it that everyone entering the nation pays a small fee -- everyone. Even if the fee is tiny, the amount of money raised would be substantial, and it could be used to enhance enforcement of our immigration laws. For instance, we could charge everyone arriving by plane $5, and everyone crossing a land border 25 cents, perhaps simply erecting a turnstyle. This would raise about $200 million a year.

Further, those with a vested interest in international migration should pay their fair share of our border and immigration costs. Here are three suggestions:

1. United States citizens are charged $45 for a secure government document (the passport) to get across our border. And yet at the southern border we issue an expensive border crossing card (the I-586) to Mexican nationals for free. A fee of $25 would produce about $5 million a year in new revenue.

2. Foreign students receive substantial benefits through their education at our educational institutions, and yet the INS charges no fee for the form (I-20) used to admit a foreign student. A modest $15 charge for the I-20 would generate $5 million in annual revenues.

3. Nonimmigrants arriving by airplane should be required to bring with them a nonrefundable round-trip airline ticket. This would not be a burden on the visitor since he must swear to an officer of the United States that he will not stay in this country. This requirement will save the INS about $23 million a year, which is what the INS spends to send home illegal aliens from distant countries.

Enhanced Border Enforcement

The economic conditions in Mexico that have caused current record high levels of illegal crossings on the U. S.-Mexico border will not be corrected in the near future. The Mexican government's own estimate for recovery has been increased to three years, and even if that prediction proves to be correct, hundreds of thousands of attempted illegal crossings can still be expected. And these pressures encouraging illegal immigration are not just in Mexico. For example, the work force of all Latin American countries is expected to double from 97 million in 1980 to 197 million in 2000. A long term solution is required. FAIR recommends an increase of 1,517 positions at a cost of $79.1 million for a program of enhanced border enforcement. This represents only a modest increase above the 10,501 positions called for in the Administration's FY 1984 INS budget request, but this increase would send a powerful signal to the entire world that the United States finally intends to seriously enforce its immigration laws.

The strategy of this plan is to increase the capability of the Border Patrol to detect and apprehend illegal immigrants as they cross the border or as they attempt to leave the border area. This will be accomplished by adding substantial resources at Chula Vista, California, and El Paso, Texas. These two sectors account for 62% of the southern border apprehensions made thus far in 1983. With the agents to be added through this plan, plus advanced equipment, it will be possible to greatly reduce the flow of illegal immigrants through these areas. Illegal immigrants who have crossed at these sectors before will be forced to either abandon their efforts or attempt entry in a more difficult environment, where terrain and natural barriers work to the advantage of the Border Patrol. Smaller increases are needed for other sectors in order to deal with illegal immigrant traffic already there and to respond to "spillover" traffic from El Paso and Chula Vista. Funds for mobile task force operations will allow for movement of resources to address changing entry patterns. The Appendix to this statement includes detailed and sector-by-sector information on this plan for enhanced border enforcement.

From start-up, it would take the INS nine and one-half months to train and fill all the requested additional Border Patrol agents. This would be accomplished by graduating 12 classes from the Academy at Glynco, Georgia, and two classes from a temporary academy that would be established at El Paso, Texas. The first group of 364 agents could enter on duty within five months.

Besides responding to the current increases in illegal crossings, this plan is also necessitated by the prospect that legalization or amnesty may be granted to illegal immigrants. The Simpson-Mazzoli bill in Title III provides that illegal immigrants in this country since before 1980 (The House version, H.R.1510, uses 1981 as the cut-off date) can qualify for legalization, thereby allowing them to permanently stay in this country. Congressional passage and subsequent enactment of such a provision will be immediately felt by the Border Patrol. Illegal immigrants will attempt entry in even greater numbers. The United States Select Commission on Immigration and Refugee Policy recognized this would be the case when it recommended that amnesty be provided only when our borders had been secured. Enhanced border enforcement must precede enactment of any legalization program. Otherwise our efforts to solve our immigration problems will only result in perpetuating them.

Even though this plan would complement employer sanctions and other new programs in the Simpson-Mazzoli bill, this plan is in no way reliant on enactment of the Simpson-Mazzoli bill. Increased border enforcement is absolutely necessary no matter what happens to needed immigration reform legislation.

Border Patrol Morale

The morale of Border Patrol employees is low and continuing to decline. This contributes to the steady loss of experienced Border Patrol personnel. The turn-over rate in the Border Patrol is 50% higher than the average of all federal service. FAIR urges this committee to include funds in the FY 1984 appropriation for a series of measures that would demonstrate to the men and women of the Border Patrol that the federal government will provide them with the proper level of support. These measures should include: a return to the GS-7 entry level grade for Border Patrol agents; a moving allowance payable upon successful completion of an agent's probationary year; and a $400 annual allowance for uniform maintenance and replacement. FAIR also believes that a nonsupervisory "advanced journeyman" position at a GS-10 or GS-11 grade should be funded in an effort to retain experienced Border Patrol agents who are currently leaving the Patrol because of a lack of promotion opportunities within the GS-9 journeyman grade.

Enforcement of Employer Sanctions

In order to implement and enforce the employer sanctions provisions of the Simpson-Mazzoli bill, FAIR recommends an increase of 902 positions at a cost of $53.4 million. This recommendation represents our best estimation of first year needs, based on discussions with the INS, staff of the House and Senate Judiciary Committees, and FAIR's independent research and analyses.

To understand the needs enforcement of employer sanctions will generate, it is helpful to examine the operations of other federal agencies that perform a similar function. For example, the Wage and Hour Division of the Department of Labor concentrates on examination of employment records maintained by individual employers. This will also be true in the enforcement of employer sanctions. In recent years the Wage and Hour Division has had about 900 full time employees, and with this level of manpower, it finds that about 10% of the employers examined violate our wage and hour laws, which were first enacted decades ago. Consequently, 902 positions is the minimum workforce enforcement of employer sanctions should be given for first year implementation and enforcement.

FAIR believes funds for implementing and enforcing employer sanctions should be included in the regular FY 1984 appropriation, rather than relying on a supplemental appropriation after the Simpson-Mazzoli bill has been enacted. We believe that enactment of the Simpson-Mazzoli bill can coincide with the beginning of FY 1984, and that to not proceed upon that basis is to knowingly limit in advance our efforts to control illegal immigration. Title I of the Simpson-Mazzoli bill places implementation of employer sanctions on a precise timetable, and only if funds are immediately available will this timetable prove to be realistic.

Legalization Program

For implementation of the legalization program contained in Title III of the Simpson-Mazzoli bill, FAIR recommends an appropriation of $140 million and envisions that 1,100 positions will be required. This $140 million should be regained by the Treasury through fees paid by applicants for legalization.

FAIR does not support the legalization (amnesty) provisions of S.529, the Simpson-Mazzoli bill. We believe its cut-off date of January 1, 1980, is far too current, and that this legalization program will not achieve its goal of eliminating the illegal subculture composed of the millions of illegal immigrants currently in this country. FAIR supports elimination of the legalization program from the Simpson-Mazzoli bill. As an alternative FAIR believes Congress should rely on the provision of law that several times in this century Congress has used to legalize illegal immigrants. The program and procedures used successfully before should now be used again. The Congress last turned to this "registry" procedure in 1965 when it put in the law that an illegal immigrant who (1) is of good moral character, (2) completes an application to the INS, and (3) has lived continuously in this country since at least June 30, 1948, can be placed on the "register" of aliens granted permanent resident status. The House version of the Simpson-Mazzoli bill, H.R. 1510, includes a provision updating the registry date from 1948 to January 1, 1973. FAIR supports updating the registry date.

So why does FAIR recommend an appropriation for the legalization program? Should it become law, FAIR believes the legalization program must be operated at maximum effectiveness and efficiency. An amnesty program such as this is an endeavor our country cannot afford to repeat, so it must be done well the first time. The INS estimates for planning purposes that the illegal immigrant population in this country is 6 million. FAIR believes the population is much larger, possibly double that -- 12 million. But on the basis of a 6 million population, the INS believes the legalization program will require up to 1,100 positions and an appropriation of up to $140 million. FAIR accepts the upper limits of these estimates because (1) we believe that the total population is underestimated, and (2) in discussions with Congressional proponents of the legalization program these figures generally resemble their estimates. Applicants for legalization will be required to pay a fee (S.529 sets $100 as the minimum fee), should recover some funds for the Treasury. Hopefully, an appropriation of $140 million will be sufficient, but if the INS discovers that far more illegal immigrants apply than INS now expects, a supplemental appropriation may be necessary.

As is the case with employer sanctions, the legalization program is placed on a tight timetable by the Simpson-Mazzoli bill. For it to be implemented and operated at all, funds must be available immediately upon enactment. The time required to wait for a supplemental appropriation could severely compromise the program.

Asylum Adjudication Reform

For implementation and operating costs of the asylum adjudication reforms contained in the Simpson-Mazzoli bill, FAIR recommends an appropriation of $2.3 million, which includes 65 new positions.

Our asylum adjudication process has become overloaded and abused. Just a few years ago we averaged about 5,000 political asylum cases a year. Not surprisingly, our system for adjudicating these cases was constructed to accommodate that workload. However, the 1980s is becoming the decade of the asylee. We now have a backlog of more than 130,000 asylum cases. Increasing numbers of illegal immigrants are filing for asylum, not because they would face political, religious, ethnic or racial persecution if they returned to their home countries, but because they know they will be allowed to stay in the United States for the years it may take for their asylum cases to be decided with complete finality.

The Simpson-Mazzoli bill includes much needed reforms to improve the processing and adjudication of asylum cases. However, with or without enactment of the Simpson-Mazzoli bill, the need is so great, the backlog so large, that added resources must be given for the processing and adjudication of asylum cases. FAIR urges the committee to include funds for this purpose in the regular FY 1984 appropriations bill.

South Florida Task Force Needed

The INS District Office in Miami needs an immediate infusion of additional resources. At 2:00 a.m. each morning people start lining up outside this office in order to get a number that will allow them to see an INS official that day. Due to the tremendous demand for services from the INS in Miami, other functions of the INS are sometimes compromised. This is all a consequence of the enormous impact of immigration, legal and illegal, on Florida, and particularly South Florida, in recent years. FAIR urges the committee to respond to this critical need by providing funds for a one year INS task force that would assist the INS District Office in Miami in meeting its most pressing needs.

Too Little, Too Late?

FAIR believes that adequate and prompt funding for enhanced border enforcement and the new programs in the Simpson-Mazzoli bill is the only sure way to even slow down illegal immigration. But what will be the consequences if funding is delayed and then provided at lower levels?

The days are now behind us when we could postpone with impunity actions to counter illegal immigration. Illegal immigration across our southern border is at an all-time high. Should legalization be enacted without first increasing the manpower of the Border Patrol, the current record levels of illegal immigration will be exceeded. With insufficient funding, employer sanctions enforcement will be spotty, hit or miss, and as a result, for employers of illegal immigrants the occasional fine will simply become a cost of doing business. A legalization program handicapped by inadequate resources could become a true blanket amnesty in which fraudulent claims are not rejected and ineligible aliens are legally placed on the road to United States citizenship. More and more Americans would join unemployed Americans in competing with illegal immigrants for employment. And conceivably a majority of Americans might in the end come to the conclusion that all immigrants hurt the country, and this could be the greatest tragedy of all.

APPENDIX:
COST SUMMARY FOR ENHANCED BORDER ENFORCEMENT PROGRAM, DIRECT ENFORCEMENT

Personnel	**Positions**	**Cost (000)**
Border Patrol Agents	915	$ 20,731
Border Patrol Pilots	17	1,287
Technicians	11	420
Communications Operators	21	327
Clerks	56	686
Mechanics/Wage Grade	32	455
Immigration Detention Officers	118	1,978
Service Processing Facility Staff	60	998
Anti-Smuggling Investigators	18	648
Anti-Smuggling Clerks	7	86
Subtotal	1,255	$ 27,616
Travel and Detention		
Mobile Task Force		$ 750
Alien Travel Detention and Welfare		1,890
Non-INS Detention Costs		3,000
Contract Guard Service		1,140
Cost of Accelerated Training		4,346
Subtotal		$ 11,126
Aircraft Operating Costs	**Flying Hours/Year**	
3 Piper, 3 Cessna, 1 Twin Engine	9,900 hours	$ 711
9 Helicopters	12,900 hours	2,519
Subtotal		$ 3,230
Equipment	**Quantity**	
Vehicles:		
Large Sedans	108	$ 1,649
Vans 4x2	97	2,462
4x4 Utility	117	2,918
4x2 Suburban	50	1,087
4x4 Pickup	1	21
4x2 Pickup	4	57
Medium Sedans (Anti-Smuggling)	4	53
Interurban Buses (Detention and Deportation)	9	1,660
School Buses	17	1,229
Subtotal (includes mobile radios & operating costs)	407	$ 11,136
Aircraft:		
3 Piper, 3 Cessna, 1 Twin Engine		$ 1,435
9 Helicopters		3,600
Subtotal		$ 5,035
Night Vision:	**Quantity**	
Infrared Scopes	18	$ 1,080
Night Vision Scopes	159	445
Subtotal		$ 1,525
Construction		
Border Patrol		$ 8,485
Detention		5,000
Subtotal		$ 13,485
TOTAL COST FOR DIRECT ENFORCEMENT		$ 73,153

APPENDIX:
COST SUMMARY FOR ENHANCED BORDER ENFORCEMENT PROGRAM, INDIRECT SUPPORT STAFF

Personnel	Positions	Cost (000)
Attorneys GS-14	9	$ 351
Legal Clerks GS-7	4	57
Inspectors	200	4,218
Intelligence Analysts GS-14	3	117
Personnel Specialists GS-13	4	142
Personnel Specialists GS-7	8	114
Training Officers GS-12	10	314
Architects GS-13	3	107
Electronic Engineers GS-13	2	71
Operation Research Analyst GS-14	1	39
Financial Analyst GS-13	1	35
Accounting Technicians GS-7	6	172
Contracting Specialists GS-13	2	71
Clerks GS-5	10	122
TOTAL COST FOR INDIRECT SUPPORT STAFF	262	$ 5,958

APPENDIX:
ENHANCED BORDER ENFORCEMENT, PERSONNEL BY SECTOR

Sector	BP Agents & Pilots	Detention	Anti-Smuggling	Other	Sector Total
Chula Vista	283	45	6	43	377
El Centro	108	17	2	17	144
Yuma	51	6	2	4	63
Tucson	30	6	1	4	41
El Paso	186	27	1	8	222
Marfa	15	1	1	2	19
Del Rio	99	6	4	14	123
Laredo	111	8	6	10	135
McAllen	49	2	2	18	71
TOTALS	932	118	25	120	1,195*

*Plus 60 positions for the Service Processing Facility Staff.

NATIONAL ASSOCIATION OF STATE UNIVERSITIES AND LAND-GRANT COLLEGES

STATEMENT OF PAUL SILVERMAN, PRESIDENT, UNIVERSITY OF MAINE, ORONO, REPRESENTING THE NATIONAL ASSOCIATION OF STATE UNIVERSITIES AND LAND-GRANT COLLEGES

Senator **Specter**. I would like now to turn to the panel on NOAA and National Marine Fisheries. I would like to have those three witnesses come foward: Mr. Paul Silverman, Dr. Rudolph Rosen, and Mr. Irwin Alperin.

We are under a very tight time schedule, gentlemen. We now are calling a vote, and when the five bells go off in just a few minutes, I am going to have to depart. I am not sure precisely when I will return because, as I have said earlier, I am going to offer an amendment to the reciprocity bill which is pending.

I'm sorry to have to say that, but that is the fact of life in the Senate. These hearings are set up, and we do the best we can, but legislative action on the floor takes precedence over everything.

So let's proceed with Mr. Silverman, if we may.

Mr. **Silverman**. Mr. Chairman, I will be as brief as I possibly can. I am president of the University of Maine, and I am representing the National Association of State Universities and Land-Grant Colleges.

First of all, I want to very much convey on behalf of the association our appreciation of the past support of the committee. We hope that continues.

We are requesting that we return to the fiscal year 1981 budget of $41.8 million that was previously given.

The only additional item that I will add to the written testimony is that the President of the United States has recently proclaimed in response to a law added to the sea treaty, a 200-mile exclusive fishing zone which literally doubles if not triples the territorial size of the United States.

The management of that resource, on the basis of intellectual resources used on the management of that, is used in the Sea Grant Association and its collectors and entities. It is incredible that when that kind of demand is being placed on the country that, in fact, no funds are being obligated in the budget. I think our fisheries production, oil and gas, mine and mineral extraction all need urgent research and attention from this bill.

Thank you very much, Mr. Chairman.

Senator **Specter**. Thank you very much, Mr. Silverman.

[The prepared statement of Paul Silverman follows:]

PREPARED STATEMENT OF PAUL H. SILVERMAN
PRESIDENT
UNIVERSITY OF MAINE AT ORONO

Thank you, Mr. Chairman, and good afternoon. I am Paul Silverman, President of the University of Maine at Orono, the Land Grant University and Sea Grant College of Maine. I am also speaking on behalf of Evelyn Handler, President of the University of New Hampshire in testifying for the FY1984 appropriation for the National Sea Grant College Program.

Our two Universities have been tied together in a productive Sea Grant relationship since 1976 when we became the first bi-state Sea Grant Institutional Program. Sharing and aiding in each other's growth, we each became Sea Grant Colleges in 1980 as part of this continuing cooperative relationship. As the Sea Grant College Program benefits from its relationship with government, industry, and our coastal and marine constituency, our two Universities have been blessed with this additional cooperation linkage.

I appreciate the opportunity to testify before the Subcommittee on behalf of our two Universities, but even more importantly, on behalf of the Marine Division of the National Association of State Universities and Land Grant Colleges and the Sea Grant Association. I have submitted a written statement for the record and will summarize the main points in my discussion here.

The National Association of State Universities and Land Grant Colleges (NASULGC) is composed of 142 colleges and universities with a total enrollment of approximately 3.7 million students. These institutions award more than 38 percent of all U.S. higher education degrees, including 64 percent of all doctoral degrees. Many of the foremost contributors to research and education on the oceans and their resources are located on these campuses. The Sea Grant Association consists of 35 colleges, universities, research centers, industries, and consortia, all of which are dedicated to enhancing the nation's capability to develop, use, and manage our marine resources. Most members of the Sea Grant Association are also members of NASULGC.

I would like to express our appreciation, Mr. Chairman, to you and the other Members of this Committee for your long-time support of the National Sea Grant College Program. This Committee has watched the Sea Grant program evolve and has nurtured and sustained us over the years. It has repeatedly cited the Sea Grant program as one of the most effective and cost efficient programs in which the Federal Government is involved.

We are requesting an FY 84 appropriation of $41.8 million, or a return to the FY1981 level. The funds would be allocated in the following manner:

* $35.8 million to support the core Sea Grant college and institutional programs in the 21 Sea Grant states;
* $3.8 million for continuing development of the national partnership in 9 states with emerging program strength;
* $1.0 million for projects of critical need, including regional and international activities;
* $1.5 million for management and coordination.

This request is further detailed in the attached justification document. My further remarks are directed towards the need for this appropriation and I have several points to present for your consideration.

First, this is a successful program. The program was well conceived by the Congress, it has been well administered, and it has carried out the mandate of Congress. In addition to this Committee's statements of support for the Sea Grant program, other government and private entities, such as the National Advisory Council on Oceans and Atmosphere (NACOA) and the Heritage Foundation, have expressed support for the program. In its 1981 publication, Mandate for Leadership, the Foundation recommended that,"Sea Grant funding should be increased by 10 percent per year in real terms for the next five years."

I would urge that the Federal Government follow an investment model with regard to this program, a model followed by the Sea Grant Programs, our universities, and private industry. This model rewards success. From the start, the Sea Grant Programs have said they are both willing and anxious to be judged by scientific, educational, social, and economic results.

Second, Sea Grant federal funds have a leverage effect. They not only serve as the glue that holds a national effort together, they also stimulate additional investment. This additional investment may come as the result of new products developed and companies formed because of the findings of Sea Grant researchers, or as a result of spin-off projects which other agencies and groups join and help bring to development. A recent study by MIT researchers has shown that a 1975 investment of $23 million by the federal government in Sea Grant resulted in 1981 sales of about $60 million; 10 new and 25 subsidiary companies were formed; and, 67 former students employed in occupations directly related to their Sea Grant research experience.

Sea Grant federal funds are matched on a 1:2 basis by state, university, and private funds as required in the National Sea Grant College Program Act. The current $35 million appropriation is matched by an additional $18 million (at least) from other sources. When times are good and there is confidence in the future of the Sea Grant Program, the percentage of matching funds is likely to be higher, running closer to 40% of total expenditures. Conversely, when appropriations are down and there is legitimate concern about the Federal commitment, there is a tendency to hold matching funds to the absolute legal minimum.

The leverage effect is seen in other ways. The University of Maine/University of New Hampshire College Program is one of the younger Sea Grant College Programs. Today, three years after being designated a Sea Grant College Program, our faculty members have a deepened commitment to the Sea Grant ideals established by the Congress.

Faculty members in every College of our Universities (Agriculture, Arts and Sciences, Education, and Engineering) are submitting proposals which demonstrate that all the disciplines taught in those colleges can be applied to the needs and opportunities of our marine constituents and to the development of our marine resources. The sad part of this story is that the $35 million appropriation this year, down from $41.8 million two years ago, means that fewer of these proposals, not more, will be funded.

Third, the program is broad-based and has enlisted the primary talent in the marine resource sciences from around the country. The core of the Sea Grant College Program is based on 29 Sea Grant institutions in the coastal and Great Lakes states. However, during the last five years these institutions have involved, programmed, and managed the work of faculty and students in over 250 educational institutions located in 39 states, the District of Columbia, Puerto Rico, and Guam. Not everyone in each place is involved all of the time, and funding constraints have limited the degree and continuity of participation. Nevertheless, this is clearly a national, broadly-based program. An attachment to this testimony lists the program participants.

For instance, in the State of Maine the Sea Grant College Program stimulates and coordinates research on the Machias and Southern Maine campuses of the University System, supports and enlists the technical teaching skills of the Vocational Institutes of Eastport and South Portland, and the Maine Maritime Academy to expand the impact of our marine advisory services to the marine community, especially fishermen. The impact of our program goes well beyond the State and regional boundary. The results of good research are often far-reaching. Via a special cooperative effort with the Maine Department of Marine Resources, educational programs now reach Denver, Colorado, where a retailer education program concerning the appropriate display of fresh fish will ensure both high quality fish to consumers in that distant region and a market beneficial to fishermen in the Gulf of Maine. With our partner, the University of New Hampshire, Sea Grant has assisted in the development of a coordinated marine curriculum for the eleven institutions in the New Hampshire College and University Consortium serving 31,000 students. One of UNH's exciting research projects involved the close partnership of investigators at the University of New Hampshire, a private seaweed industrial laboratory in Maine, and the University of Washington.

Fourth, much of the Sea Grant Program's strength and effectiveness is due to the fact that the program is based on competitive and meritorious principles. The funding is programmed; it is not a formula handout. There is an apparent misconception in the Department of Commerce that this funding is "free" money and the use of the word "grant" in SEA GRANT implies a giveaway. It does not. I have with me the annual proposal of the University of Maine/University of New Hampshire Sea Grant College Program. This is the end product of an extensive long-range planning process involving the constituency and marine resource managers of our two states. This on-going planning process is summarized in this document (UMe/UNH Long Range Plan).

This proposal is also the end product of a nearly year-long development and competitive review process. It contains both substantive and fiscal detail. Enroute to this document which contains 26 project proposals, other excellent proposals fall by the wayside, the victims of hard decisions forced by inadequate funding.

Fifth, I have referred several times in this testimony to Sea Grant as an investment. It is, and I want to give some examples.

• Shellfish research in Maine and New Hampshire has both stimulated a new industry and increased the landings in a traditional one. Fifty small companies have been formed to grow the European oyster. Because of their quality, these oysters are already in special demand. In addition, two much larger blue mussel companies have moved to Maine to be near the technical experts at our campuses and to take advantage of natural growing conditions. In the meantime, landings and marketing of wild mussels have increased more than tenfold.

• A Sea Grant-developed and patented 250 gallon/day pilot system is being tested to desalt ocean water using wave energy. Scaled-up systems could produce excellent water at less than $1/1,000 gallons, which is 3 to 4 times less than a new state-of-the-art electric powered desalting plant in Key West.

• The Chairman and members of the staff are aware of the MIT/Marine Industry Collegium. This paid membership operation brings university researchers together with government and industry personnel on research developments and their implications. In return, they receive feedback on manpower and research needs. Recent Collegium meetings have covered areas of opportunity such as wave power systems, vibration response of offshore structures, underwater communications and robotics, and computer-aided ship design. The students involved in the research areas covered by the Collegium are a key source of the manpower for technology-based marine programs.

• Washington Sea Grant's pioneering work in underwater acoustics has not only created a new technology that is transforming fishery management, but it has created a new domestic industry: the manufacture of high precision acoustic instrumentation. Biosonics, Inc., formed in 1978, today employs more than 60 people and annually manufactures and sells several million dollars worth of equipment to customers throughout the United States — and eight foreign countries.

• Sea Grant research established a new industry in Louisiana worth $70 million. Ten years of research on crawfish aquaculture—at an expense of $300,000—turned a traditional wild harvest into a thriving industry.

• Gulf shrimp fishermen saved about $30 million over a seven year period as a result of a Sea Grant effort to identify, catalog, and disseminate information on bottom obstructions. This also resulted in a direct taxpayer savings of $1 million since it was no longer necessary to carry out seafloor surveying under Title IV of the Fishermen's Contingency Fund.

• In Oregon, Sea Grant researchers have found a way to save millions of dollars annually for containerized shipping ports by developing a computerized leading plan. We are training people to use this plan and the necessary technology; and as a result, ports in the Northwest should be better able to handle multi-million dollar projects that will mean more jobs at a time they are badly needed.

• Sea Grant researchers, in one state, have been instrumental in helping industries and towns meet new government water quality standards. It is estimated that in one river region, the savings for seven towns and fourteen paper mills will be $13 million annually.

• Sea Grant funding made possible preliminary research on combining fly ash and scrubber wastes resulting from coal burning into a chemically stable, solid mass. Disposal of huge volumes of scrubber sludges in an environmentally safe and economical fashion was a major problem for conversion of electric generating stations from oil to coal. Using this technology, fly ash/scrubber sludge blocks could be used to create artificial fishing reefs or other undersea constructions. A major test off the south shore of Long Island has shown the technique to be safe for the environment. Field scale tests were sponsored by the U.S. Environmental Protection Administration, Department of Energy and public utilities.

• Lest we forget that all of this high-powered technology and manpower has to serve ordinary people, I want to mention the pioneering efforts of the Maine, Rhode Island, and Georgia Sea Grant Programs, among others, to bring modern technology to the fishing industry. These efforts are helping a badly-distressed sector of the marine economy. The impact of these efforts goes beyond the harvesting sector. Development of the two-boat trawl by marine advisory agents in Maine and Rhode Island has lengthened the harvesting and processing season for herring, adding millions of dollars to the processing payroll, and reducing unemployment of these resident seasonal workers.

- As a result of research begun by Michigan Sea Grant on cold water drowning and or revival techniques, further research and a massive educational program by the Sea Grant network around the country and government agencies, the Coast Guard estimates there has been a 25% drop in drowning fatalities.

Sixth, there are a number of needs and opportunities for productive Sea Grant work. As a result of the Law of the Sea negotiations, the coastal nations of the world are in the process of enclosing the biologically and economically productive areas of the world ocean. The President has just proclaimed the 200-mile exclusive economic zone for this country, giving us management responsibility for a water area greater than our land mass. There are important development opportunities on the outer continental shelf, but also some major resource use conflicts. Transboundary questions in the Great Lakes and Gulf of Maine affect water supply and food resources for a major part of our population and our relations with Canada. At the same time, scientific advances such as computerized technology, underwater work systems, and genetic engineering are vastly expanding the opportunities we have for putting the oceans and their resources to work.

We realize the budget is very tight and that we are asking for an increase at a time when the proposed federal budget does not include the Sea Grant Program. We believe, however, that Sea Grant has much to offer the nation in economic development, new employment opportunities, and new products and services for industry and business. We wish to participate in the revitalization of the nation's economy. Initiatives being developed by the Sea Grant community in biotechnology, marine biochemicals, aquaculture, marine transportation are all evidence that we are contributing to the effective and innovative use of our coastal and ocean resources.

Mr. Chairman, you may be assured that we in the Sea Grant community will do everything within our power to assure that the investment of the federal government in Sea Grant is returned to the public many-fold in economic and social benefits. I appreciate the opportunity to appear before you today and to find your continued willingness to invest, through Sea Grant, in the future of the nation's marine resources. I will be glad to answer any questions you may have.

ATTACHMENTS

FY84 BUDGET INFORMATION FOR THE NATIONAL SEA GRANT COLLEGE PROGRAM

PREPARED BY THE SEA GRANT TASK FORCE, MARCH 1983

BUDGET PROPOSAL SUMMARY

An FY84 budget of $41.8 million is proposed for the National Sea Grant College Program to restore these productive, effective, cost efficient programs to the FY81 level and to enhance development of promising new areas of marine resource needs and opportunity. The budget break down:

(1) Provides $35.5 million for the core institutional programs in the 29 Sea Grant States and Puerto Rico.

(2) Strengthens the national partnership by focusing on continued development of Sea Grant colleges in the coastal and Great Lakes states and Puerto Rico--an effort which will require $3.8 million.

(3) Restores $1.0 million for FY83 for projects of critical need, i.e., marine corrosion, radioactive waste disposal depository.

(4) Provides management and coordination of the national program by the Office of Sea Grant at $1.5 million for FY84.

FY84 BUDGET PROPOSAL

It is proposed that the four major budget categories of the National Sea Grant College Program be funded at FY81 levels.

1. CORE INSTITUTIONAL SEA GRANT PROGRAMS: $35.5 MILLION

   The first major budget category is the Core Institutional Sea Grant Programs currently operating in 29 states and Puerto Rico, which collectively coordinate the Sea Grant efforts of approximately 200 colleges and universities throughout the nation and serve thousands of students and hundreds of thousands of industry, business, general public and government users. Future plans include research and advisory service work in seafood technology, multispecies fishery management, controlling health risks from seafood, genetically improved fish stocks, marine pharmaceuticals, and underwater work systems. The core programs are:

ALABAMA
ALASKA
CALIFORNIA
CONNECTICUT
DELAWARE
FLORIDA
GEORGIA
HAWAII
ILLINOIS
INDIANA
LOUISIANA
MAINE
MARYLAND
MASSACHUSETTS
MICHIGAN
MINNESOTA
MISSISSIPPI
NEW HAMPSHIRE
NEW JERSEY
NEW YORK
NORTH CAROLINA
OHIO
OREGON
PUERTO RICO
RHODE ISLAND
SOUTH CAROLINA
TEXAS
VIRGINIA
WASHINGTON
WISCONSIN

2. CONTINUED DEVELOPMENT OF THE NATIONAL PARTNERSHIP: $3.8 MILLON

Substantial effort has been made over the past several years to bring the government-industry-university partnership to coastal and Great Lakes states which do not now have full capabilities as Sea Grant colleges and institutions. Marine resource development needs nationwide are critical. Careful long range planning and assessment of national marine resource development needs clearly point to a requirement for continued efforts directed toward enhancing developing Sea Grant College Programs throughout the nation, with particular emphasis on:

CONNECTICUT
ILLINOIS
INDIANA
MINNESOTA
NEW JERSEY
OHIO
PUERTO RICO
SOUTH CAROLINA
VIRGINIA

The $3.8 million will strengthen the marine research and service capabilities in these 9 states to enable them to meet marine resource needs. These developing programs were capped by the budget cuts of FY82, and it is important that they be brought into fuller participation in the national marine resource effort.

3. SEA GRANT PROJECTS OF CRITICAL IMPORTANCE: $1.0 MILLION

Beginning to restore Projects of Critical Importance for FY84 to the FY81 levels will require $1.0 million. These projects serve all coastal and Great Lakes states, as well as many of the heartland states, and will help revive important international activities.

In order to encourage more systematic regionwide activities, it is important to begin to restore the effective regional Sea Grant Networks. The individual Sea Grant Programs have managed to keep network activities going but the federal budget cuts have inhibited the most effective development of this critical talent sharing and goal setting mechanisms. This activity reinforces the goals outlined above, of restoring the Core Programs (item 1) and continuing development of the National Partnership (item 2).

International Sea Grant Activities so far have involved at least 10 institutions and were beginning to have pay off before the FY82 budget cutbacks. These projects not only serve to promote understanding, they promote the education of U.S. students and faculty and supplement U.S. research. In several areas, such as the Gulf of Mexico and the Caribbean, they are an important link with major domestic resource questions, which are in fact international in scope.

Any remaining funds would be used to sustain multiprogram activities in areas such as marine corrosion research and studies related to disposal of radiochemical wastes in the ocean.

4. **NOAA OFFICE OF SEA GRANT MANAGEMENT AND COORDINATION: $1.5 MILLION**

Facilitation of a coordinated and cost-effective Sea Grant College Program requires management at the national level viz. an Office of Sea Grant, a national panel (which serves as a board of overseers) and other institutions of management. It is proposed that these be funded at FY83 levels.

PROGRAM EMPHASIS OF NATIONAL SIGNIFICANCE

The Sea Grant Programs focus research activities on problems and needs of significance to the nation, as well as the states and regions. Sea Grant projects and activities address important issues including:

- Commercial aquaculture
- Coastal Water Quality
- Oil Spill Modelling and Technology
- Fisheries Technology Development
- Development of Marine Recreational Resources
- Cold Water Lifesaving Technique
- Fish for Export
- Salt Tolerant Plants
- Marine Technology Development
- Marine Biomedicinals and Natural Products
- Deepwater Ports
- Marine Biotechnology

BACKGROUND AND BUDGET PERSPECTIVES

The National Sea Grant Program was created in 1966 by the National Sea Grant College and Program Act. The purpose is to accelerate marine resource research, education and advisory services, including conservation, management and utilization. The 1966 Act established a matching fund, federal grant program for the designation and operation of sea grant colleges and university-based research programs. The law requires that at least one-third of the total cost of a program come from state or private funds. The program provides grants to public and private universities, institutions, laboratories and agencies engaged in, or concerned with, marine resource development. Sea Grant activities are divided into three major areas: research, education and advisory services.

Sea Grant is a comprehensive research and development partnership of government, industry, and universities, designed to develop effectively the marine resources of the oceans and of the Great Lakes of the United States.

It is clear from the evidence available that, since 1966, Sea Grant has forged an effective partnership between the states and the federal government which has become a national asset as has the Land Grant Program and has achieved national recognition. This prospectus outlines the budgetary implications for Congressional review during FY84 appropriations consideration.

The federal contributions to the Sea Grant College Program, with careful Congressional oversight, evolved to an appropriation of $41.8 million for FY81, which was matched by $25.6 million from non-federal sources. The FY82 and FY83 Continuing Resolutions provided $35 million, a 16.3% reduction over 1981. To accommodate these budget cuts, the Administration began phasing out the national projects, the international program, and many of the individual projects in FY82. Further, the Sea Grant College Programs have been in general reduced. The Sea Grant office has only been increasing the developing programs, in states and regions without Sea Grant Colleges.

NATIONAL SEA GRANT COLLEGE PROGRAMS

SEA GRANT COLLEGES AND INSTITUTIONS

Alaska Sea Grant College Program
California Sea Grant College Program
University of Southern California Sea Grant Program
Connecticut Sea Grant
University of Delaware Sea Grant College Program
Florida Sea Grant College
Georgia Sea Grant Program
University of Hawaii Sea Grant College Program
Illinois–Indiana Sea Grant Marine Extension Project
Louisiana Sea Grant College Program
University of Maryland Sea Grant College
Massachusetts Institute of Technology Sea Grant Program
Michigan Sea Grant College Program
Minnesota Sea Grant Institute
Mississippi–Alabama Sea Grant Consortium
University of New Hampshire/University of Maine Sea Grant College Program
New Jersey Institutional Sea Grant Program by New Jersey Marine Sciences Consortium
New York Sea Grant Institute of State University of New York and Cornell University
University of North Carolina Sea Grant College Program
Ohio Sea Grant Program
Oregon State University Sea Grant College Program
University of Puerto Rico Sea Grant College Program
University of Rhode Island Sea Grant College Program
South Carolina Sea Grant Consortium
Texas A&M University Sea Grant College Program
Virginia Sea Grant Program
Washington Sea Grant Program
University of Wisconsin Sea Grant College Program
Woods Hole Oceanographic Institution Sea Grant Program

GEOGRAPHICAL LISTING OF SEA GRANT PARTICIPATING INSTITUTIONS

ALABAMA

*Auburn University
*Marine Environmental Sciences Consortium
Talladega College
Tuskegee Institute
*University of Albama
*University of Alabama in Birmingham
*University of South Alabama

See also Appendix I

ALASKA

Kodiak Community College
Sheldon Jackson College
*University of Alaska—Anchorage
*University of Alaska—Cooperative Extension Service
*University of Alaska—Fairbanks
*University of Alaska—Juneau

ARIZONA

*University of Arizona

ARKANSAS

*University of Arkansas

CALIFORNIA

*California Institute of Technology
*California State Polytechnic University, Pomona
*California State University, Long Beach
California State University, Northridge
*Humboldt State University
*Moss Landing Marine Laboratories[1]
*San Diego State University
*San Francisco State University
*San Jose State University
*Scripps Institution of Oceanography
Southern California Ocean Studies Consortium[2]
*Stanford University
*University of California, Berkeley
*University of California, Davis
*University of California, Irvine
University of California, Los Angeles
*University of California, Riverside
*University of California, San Diego
*University of California, Santa Barbara
*University of California, Santa Cruz
University of San Diego
*University of Southern California
*University of the Pacific

California Academy of Sciences
*Southern California Coastal Water Research Projects

[1] A consortium of six northern California state universities

[2] Composed of six southern California state universities

COLORADO

*Colorado State University

American Cancer Research Center and Hospital

CONNECTICUT

*University of Connecticut
*Western Connecticut State College
*Yale University

DELAWARE

*University of Delaware

DISTRICT OF COLUMBIA

*American Geophysical Union
National Association for Equal Opportunity in Higher Education
*National Fisheries Institute

FLORIDA

*Florida Atlantic University
*Florida Institute of Technology
*Florida International University
Florida Junior College
Florida Keys Community College
*Florida State University
Nova University
*St. Petersburg Junior College
*University of Central Florida
*University of Florida
*University of Miami
University of North Florida
*University of South Florida
*University of West Florida

*Harbor Branch Foundation
*Mote Marine Laboratory

See also Appendix I

GEORGIA

Georgia Institute of Technology
Georgia Southern College
*Morehouse Medical College
*Skidaway Institute of Oceanography
*University of Georgia

See also Appendix I

GUAM

*University of Guam

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*Has received funds since 1968

HAWAII

*University of Hawaii at Hilo
*University of Hawaii—Honolulu Community College
*University of Hawaii—Kauai Community College
*University of Hawaii—Leeward Community College
*University of Hawaii—Manoa
*University of Hawaii—Maui Community College
*University of Hawaii—Windward Community College

IDAHO

*University of Idaho

ILLINOIS

*University of Illinois at Urbana-Champaign

INDIANA

*Indiana University
*Purdue University

See also Appendix I

IOWA

*Iowa State University

KANSAS

See Appendix I

LOUISIANA

*Hebert Law Center
*Louisiana State University Agricultural Center
*Louisiana State University—Baton Rouge
*Nicholls State University
Northeastern State University
*Southern University—Baton Rouge
University of New Orleans
University of Southwestern Louisiana

Terrebonne Parish School Board

MAINE

*College of the Atlantic
*Maine Maritime Academy
*Southern Maine Vocational Technical Institute
University of Maine at Machias
*University of Maine at Orono
*University of Southern Maine
*Washington County Vocational Technical Institute

*Bigelow Laboratory for Ocean Sciences

MARYLAND

Anne Arundel Community College
*John Hopkins University
St. Mary's College in Maryland
*University of Maryland—Baltimore City
*University of Maryland—Baltimore County
*University of Maryland—Center for Environmental and Estuarine Studies
*University of Maryland—College Park
*University of Maryland—Eastern Shore

Baltimore City Public Schools
*St. Mary's County Public Schools

*Citizens Program for Chesapeake Bay
Council for National Cooperation in Aquatics
*National Aquarium in Baltimore
Undersea Medical Society, Inc.

MASSACHUSETTS

*Boston University
*Harvard University
*Massachusetts Institute of Technology
*Massachusetts Maritime Academy
*University of Massachusetts—Amherst
*Woods Hole Oceanographic Institute

*New Bedford Public School System

*Children's Memorial Hospital
Marine Biological Laboratory
New England Aquarium

See also Appendix II

MICHIGAN

*Eastern Michigan University
*Michigan State University
*Michigan Technology University
*Northern Michigan University
Northwestern Michigan College
*The University of Michigan
Wayne State University

Michigan Primary and Secondary Schools (18)

MINNESOTA

*University of Minnesota—Duluth
*University of Minnesota, Twin Cities

MISSISSIPPI

*Jackson State University
*Mississippi State University
*University of Mississippi
*University of Southern Mississippi

*Biloxi High School
*Ocean Springs High School

*Gulf Coast Research Laboratory

MONTANA

*University of Montana

NEW HAMPSHIRE

*Colby-Sawyer College
*Dartmouth College
*Franklin Pierce Law Center
*Plymouth State College
*University of New Hampshire

*New Hampshire Council of Universities and Colleges

NEW JERSEY

Atlantic Community College
Brookdale Community College
*Fairleigh Dickinson University
Kean College of New Jersey
Montclair State College
New Jersey Institute of Technology
*New Jersey Marine Sciences Consortium
*New Jersey Medical and Dental School
*Princeton University
Rider College
*Rutgers—The State University
*Stevens Institute of Technology
Stockton State College

NEW YORK

*Adelphi University
*City University of New York—Graduate School at University Center
*City University of New York—Hunter College
Clarkson College
*Columbia University
*Cornell University
Jefferson County Community College
*New York University
Pratt Institute
*Rensselaer Polytechnic Institute
*Rochester Institute of Technology
*Southampton College of Long Island University
*St. John's University
*State University of New York Agricultural and Technical College at Farmingdale
*State University of New York at Buffalo
*State University of New York at Stony Brook
*State University of New York at Albany
*State University of New York Binghamton
*State University of New York College at Buffalo
*State University of New York College at Oswego
*State University of New York College at Fredonia
*State University of New York College at Potsdam
*State University of New York College at Brockport
*State University of New York—College of Environmental Science and Forestry
*The Medical Center for New York University
*Webb Institute of Naval Architecture

*Great Neck Public School District
*Staten Island Continuum of Education
Syracuse School District

Society of Naval Architects and Marine Engineers

NORTH CAROLINA

Beaufort County Technical Institute
Campbell University
Cape Fear Technical Institute
College of the Albemarle
*Duke University
*East Carolina University
*North Carolina A&T University
*North Carolina Central University
*North Carolina State University
*University of North Carolina at Chapel Hill
*University of North Carolina at Wilmington

*Laque Center for Corrosion Technology, Inc.

OHIO

*Bowling Green State University—Bowling Green
Bowling Green State University—Firelands
*Case Western Reserve University
Findlay College
*Hiram College
Lakeland Community College
Lorain County Community College
*The Ohio State University—Columbus
The Ohio State University—Mansfield
University of Cincinnati
*University of Miami
*Center of Science and Industry
Cleveland Museum of Natural History
*Ohio Arts Council

See also Appendix I

OLKLAHOMA

*University of Oklahoma

OREGON

*Clatsop Community College
*Lewis and Clark College
*Oregon Health Sciences University
*Oregon State University
*University of Oregon

PENNSYLVANIA

*Lake Erie Marine Sciences Institute
*Lehigh University

PUERTO RICO

*Catholic University
*Inter American University—Arecibo
*Inter American University—San German
*University of Puerto Rico—Humacao
*University of Puerto Rico—Mayaguez
*University of Puerto Rico—Rio Piedras

RHODE ISLAND

*University of Rhode Island

SOUTH CAROLINA

*Clemson University
*College of Charleston
*Medical University of South Carolina
*South Carolina State College
*The Citadel
*University of South Carolina—Columbia
University of South Carolina—Beaufort
*University of South Carolina—Coastal Carolina

*Marine Resources Research Institute

TENNESSEE

See Appendix I

TEXAS

*Baylor College of Medicine
Brazosport College
Lamar University
Pan American University
Sam Houston State University
*Texas A&M University
*Texas A&M University at Galveston
*Texas Southern University
*Texas Southmost College
Texas State Technical Institute—Harlingen
*University of Houston
*University of Houston at Clear Lake City
*University of Texas at Austin
*University of Texas at Port Aransas

Texas Education Service Center—Waco

UTAH

*University of Utah

VIRGINIA

*College of William and Mary
*George Mason University
*Hampton Institute
*Norfolk State University
*Old Dominion University
Rappahannock Community College
Thomas Nelson Community College
University of Virginia
*Virginia Institute of Marine Science
*Virginia Polytechnic Institute and State University
*Virginia State University

WASHINGTON

*Bellingham Vocational-Technical Institute
Clover Park Vocational-Technical Institute
*Grays Harbor College
Highline Community College
*Seattle Central Community College
Shoreline Community College
*University of Washington
*Washington State University
Western Washington University

*Pacific Science Center

WEST VIRGINIA

*West Virginia University

WISCONSIN

*Lawrence University
*Medical College of Wisconsin
*University of Wisconsin—Extension
*University of Wisconsin—Green Bay
*University of Wisconsin—Madison
*University of Wisconsin—Marinette
*University of Wisconsin—Milwaukee
*University of Wisconsin—Parkside
*University of Wisconsin—Stevens Point
*University of Wisconsin—Superior

NATIONAL WILDLIFE FEDERATION

STATEMENT OF RUDOLPH A. ROSEN, PH. D., FISHERIES RESOURCE SPECIALIST, FISHERIES AND WILDLIFE DIVISION, NATIONAL WILDLIFE FEDERATION

ACTIVITIES OF FEDERATION

Senator SPECTER. Dr. Rosen, we would like to turn to you at this point.

Mr. ROSEN. Mr. Chairman, my name is Rudolph Rosen. I am a fisheries specialist with the National Wildlife Federation.

Senator Specter, thank you for the opportunity to express the views of the National Wildlife Federation on the budget of the National Marine Fisheries Service [NMFS].

Please enter into the record both my brief remarks and the detailed statement I submitted earlier.

Senator SPECTER. They both will be made a full part of the record as with president Silverman's testimony.

Mr. ROSEN. My views also express the National Coalition for Marine Conservation.

The National Wildlife Federation is the world's largest not-for-profit private conservation education organization with over 4 million supporters throughout the United States and 52 affiliated statewide organizations.

Angler and commercial fishermen's groups are among our affiliate organizations. The National Coalition for Marine Conservation is a private conservation organization with members in all coastal States. They are devoted to the enhancement of marine resources and protection of the marine environment.

BUDGET CUTS

We are deeply concerned over the agencywide effects of deep cuts proposed for the NMFS programs. The proposed budget slashes in funding to the agency average 37 percent, but many of the essential programs will be completely eliminated and some of the others severely curtailed.

We feel the proposed budget seems not to account for the multibillion dollar value of fisheries' resources of the American anglers who number over 50 million, angler support and service industries, commercial fishing industry and all others who enjoy the natural resources of our ocean and estuaries.

Many of the services performed by the NMFS cannot and should not be performed by the States or private firms. I am going to briefly point to a few major concerns over which we are deeply concerned which are detailed by the Wildlife Federation's very specific funding requests; please refer to the written statement.

Maintaining of the resource space enhances jobs in the recreational and commercial fishing industry which requires sound conservation and management. Only by a strong research and resources monitoring program can that possibly be accomplished.

The proposed budget for resource services would eliminate program funding by a third and mothball the entire fisheries research fleet.

The habitat research program would be cut by over 50 percent. Vital work on the effects of marine resources would have to grind to a halt. Our responsibility for wide stewardship of marine resources, let alone the Government's responsibility to manage fisheries under even the laws of the country are being jeopardized by the budget cuts.

For example, 50 research councils which were established by the Fishery Conservation Management Act, would probably put the councils out of the business of managing the fisheries Congress intended.

Major habitat conservation program efforts of the NMFS will be thwarted by the proposed budget and personnel cuts. Hardest hit would be the Northeast where funding will be reduced.

Senator SPECTER. Dr. Rosen, I am going to have to ask you to conclude, if you would. We have your full statement, and it will be made a part of the record. If you have any other highlights, would you do that?

Mr. ROSEN. I don't think I got the full 5 minutes. This is scheduled for 5.

Senator SPECTER. You will have to fight with the clock about that.

Mr. ROSEN. OK. The NMFS programs under the State-Federal grants partnership developed by the Fisheries Conservation Act are essential to Maine as well as restoration at areas such as the Susquehanna River. That is a program I am really excited about.

Senator SPECTER. Would that be Pennsylvania?

Mr. ROSEN. You bet, Sunbury. Where else is the Susquehanna? [Laughter.]

Mr. ALPERIN. We are also interested in Connecticut.

Mr. ROSEN. These grants are very important in that effort. They are scheduled for complete termination. We request that full funding for these grants be maintained and specific money be allocated in section VII of the act for striped bass work, too.

Senator SPECTER. Dr. Rosen, we will give it very careful consideration. I am sorry about the time, but those bells are about to ring.

[The information follows:]

NATIONAL WILDLIFE FEDERATION

PREPARED STATEMENT OF DR. RUDOLPH A. ROSEN

FISHERIES RESOURCE SPECIALIST

Mr. Chairman, thank you for the opportunity to convey our extreme concern over the Fiscal Year 1983 (FY 84) budget of the National Marine Fisheries Service (NMFS) of the National Oceanic and Atmospheric Administration (NOAA).

The National Wildlife Federation (NWF) is the world's largest not-for-profit private conservation-education organization with over 4 million members and supporters throughout the U.S. and 52 affiliated statewide organizations. Angler and commercial fishermen's groups are included among our list of affiliated organizations, and many of our members enjoy the natural resources of the sea. The NWF has consistently expressed concern for marine and anadromous fisheries and has staunchly supported the scientific management of fisheries resources by the U.S. within our 200-mile Fishery Conservation Zone.

The NWF is deeply concerned over the Administration's proposal to slash 37% from the NMFS FY 84 base budget (funding level necessary to maintain programs). We are especially troubled by the distribution of these cuts which target valuable research and stock assessment programs, habitat and contaminant research, habitat conservation efforts, mitigation responsibilities, state-federal cooperative projects, laboratory research, and other scientific and fisheries conservation programs that allow for the best management, and greatest safe economic gain from our fisheries resources.

Last year, NWF came before Congress concerned with severe cuts proposed for the NMFS budget. In testimony submitted to you, we asked for funding levels above those proposed by the Administration for habitat conservation and research, Regional Fishery Management Councils, Columbia River programs, marine resources monitoring, Anadromous Fish Act grants to states, and Commercial Fisheries Research and Development Act grants to states. Congress recognized the importance of these programs to our nation and in the Continuing Resolution for FY 83 provided adequate funding to many NMFS programs including all those about which NWF was most concerned.

We commend the Senate Appropriations Committee's action last year and were very pleased to read the following paragraph on the NMFS budget in the Subcommittee's report of 24 September 1982 (Senate Report No. 97-584):

> The Committee action restores most of the requested program reductions in the fiscal year 1983 budget. The Committee notes that for some programs, this is the third time the Committee has acted to restore proposed cuts in important oceans, fisheries, aquaculture, sea grant and weather service programs. While it is the intent of the Committee to work with the Department in a cooperative spirit, the Committee is concerned that continued reconsideration of program reduction indicates a disregard for congressional guidance. It is the hope of the Committee that the Department and NOAA will recognize and communicate to

> OMB the clear congressional interest in our Nation's fisheries, oceans, and weather programs--interest which now has a lengthy legislative history. The Committee anticipates that, to this end, the budget for NOAA for fiscal year 1984 will take cognizance of congressional actions as the base for NOAA's budget request.

This year we come before you again making the same request and looking at the same proposed FY 83 cuts rolled over to FY 84, plus additional new cuts proposed for FY 84. And, as has been true for many years, inflation has continued to erode the "value" of money funding all programs.

Again, we hope you too will see the need for vital NMFS programs that ensure adequate knowledge upon which to base fishery management planning, provide for strong and well informed Fishery Management Councils, maintain habitat, provide assistance to developers in limiting wetlands loss, enhance valuable anadromous fisheries, maintain research providing for the best use and protection of our coastal waters, and continue strong federal assistance to states for programs where such assistance is warranted.

In a recently issued Department of Commerce statement on the FY 84 budget, it was stated that "Within the marine fisheries area, we will be focusing our efforts on those activities which will increase the contribution of the domestic fishing industry to the GNP [gross national product]." We certainly agree that one of the goals of the NMFS should be to increase the utilization and value of U.S. fisheries products. However, there are additional equally important missions of the federal agency charged with overseeing America's marine fisheries resources. For example, the NMFS programs must ensure the long-term productivity of our marine and estuarine resources; NMFS must provide service to the over 12 million marine fish anglers who spent 147 million angler days in 1980 and who pumped at least $2.4 billion into the U.S. economy simply to go fishing in salt water; NMFS must provide the research base and direction for U.S. commercial, recreational, and aquacultural interests; NMFS must provide research and assessment of near-shore processes and man-made disturbances that affect fish and shellfish.

Our nation runs the risk of squandering its resources when it guts programs that are designed to hold fisheries habitat loss to a minimum and to provide for future management and maintenance of fisheries resources. The NWF recognizes the need to reduce federal spending, reduce unnecessary and burdensome regulations, and return to the states programs best handled by local government. However, the Administration proposal for the NMFS budget goes beyond reason and cuts to the federal level. Our concerns are detailed program by program following as we can the format used by the Administration in presenting the NMFS FY 84 budget.

NMFS PROGRAMS

Information Collection and Analysis

Resource Information

Resource Surveys. Resource Survey Program reductions proposed for FY 84 would hit the Northwest Center hardest (-$1,928,000) where funding would be cut for resource assessment work at Kodiak (-$125,000) and elsewhere in the

Northwest (-$39,000), salmon interception work at Auke Bay (-$1,200,000) and elsewhere in the Northweast (-$464,000), and salmon survival work (-$100,000). The Northeast Center would lose funding for work on fish dynamics (-$200,000), plankton ecology (-$64,000), and marine ecosystems (-$100,000). The Southeast Center would lose funding for resource surveys at Pascagoula (-$400,000) and improving survey technology (-$520,000). The Southwest Center will fare best with only loss of underutilized fisheries work at Tiburon (-$160,000) and elsewhere in the Southwest (-$126,000).

Our estimates indicate these losses represent an over-all 31% reduction in survey funding and a 9% loss in personnel. In addition to these funding and personnel losses, all eight NOAA vessels dedicated to fisheries research and stock assessment work are to be deactivated (-$7,953,000). (The FY 84 budget estimate for Resource Surveys includes an "additional" $4,338,000 funding as a result of receiving transferred money "saved" by not running the NOAA fisheries fleet.) These fleet reductions (listed by NOAA Activity: Program Support; and Subactivity: Marine Services) are in addition to the proposed "layup" of two other research ships (-$2,300,000), one of which conducted outer continental shelf environmental assessments, and reductions in days at sea for two oceanographic/fisheries research vessels (-$812,000). Proposed ship maintenance and support would only decrease by 6% (-$1,385,000) to reflect the elimination of the fisheries fleet.

Eliminating NOAA's fisheries research ship capability ignores the consequences of having to rely on the availability and condition of privately owned vessels to collect crucial survey information. Contracting the use of commercial fishing vessels to conduct survey work, as proposed, disregards the years of experience of NMFS scientists, technicians, and ship's crew, in using and adapting their research vessels to provide consistent and reliable survey results.

Harvesting fishery resources at optimum levels requires careful assessment of available resources and precise predictions of present and future stock trends. The NMFS conducts standardized scientific surveys with vessels in an attempt to maintain an up-to-the minute biological and environmental data base on stocks of various fishery resources and other factors impinging on the production of those resources. These activities are at the heart of managing our offshore fisheries in a biologically safe manner.

Cuts to the Resource Survey Program budget come in spite of increased need for information on which to base fishery management planning. For example, in the Northwest, salmon fishery managers are seeking even greater levels of information to reduce the harvest of wild stocks of salmon and to eliminate the yearly battle between U.S. and Canadian interests over salmon interceptions.

The NWF recommends continued full funding of the fishery Resource Survey Program (+$1,078,000). We also recommend continued maintenance and use of the NOAA research fleet because these ships are the best available anywhere to provide the most accurate data needed to manage our valuable fishery resources (+$10,958,000).

Habitat Research Program. The Habitat Research Program is scheduled for a decrease of 72 positions and $4,543,000. These cuts equal a 50% loss in personnel and a 54% drop in funding. These decreases, if enacted, would represent losses that go beyond decreased efficiency or even simple crippling. These losses would destroy this valuable program. Essential research, once discontinued, may never be restarted, and highly skilled personnel and scientists, some of whom are among the best in the world in their respective fields, will be left to watch their achievements and the potential for future gains slip rapidly away.

Major projects at the Northeast Center would be gutted such as the habitat work (ocean pulse project) at Sandy Hook (-$2,106,000), the study of Long Island Sound (-$250,000), and all research at the Oxford Lab would cease, which includes work on fish and shellfish disease and environmental stress (-$448,000), pathobiology (-$135,000), and management work (-$176,000). The Southeast Center would have its fishery ecology project terminated (-$340,000). The Southwest Center would lose all funding for striped bass work to determine the sources of early mortality (-$179,000) and funding for study of predator-prey interaction (-$204,000). Hardest hit will be the Northwest Center, which will lose funding for work on ecosystems modeling (-$204,000), ecological interactions (-$39,000), ground fish assessment (-$198,000), habitat investigations (-$204,000), physiological effects of pollutant stress on invertebrates (-$97,000), effects of environmental perturbations (-$421,000), Alaska salmon (-$98,000), and effects of contaminants on life processes (-$87,000).

Research conducted under this program is probing the quantitative relationship between habitat and fishery production. Such information is essential so that changes in fish and shellfish production resulting from habitat alteration can be accurately predicted. The continued success of our nation's commercial and recreational fishermen depends upon this valuable research effort.

In addition, scientists conducting habitat research programs provide state-of-the-art research data on the effects of habitat alteration and pollutants to other programs in NMFS, other federal agencies, state agencies, and private interests. Their expertise is called upon regularly in instances where habitat alteration, pollutants, or other perturbations are thought to impact our fisheries resources.

In addition to the loss of projects associated with the Habitat Research Program, cuts in project funding under this program and others will force the closing of the fish and shellfish disease control lab at Oxford (MD), the shrimp and shellfish research lab at Galveston (TX), the lab at Bay St. Louis (MS) working on improvements in fishery technology, the seafood technology lab at Gloucester (MA), and the Tiburon (CA) lab. The work of labs at Sandy Hook (NJ) and Beaufort (NC) would also be severely reduced by the FY 84 budget.

The NWF recommends that no monies be cut from the Habitat Research Program (+$4,543,000) and that all fisheries research laboratories be maintained as part of our nation's fisheries management and research program.

Salmon Research Program. The proposed budget would eliminate research on the effects of the Columbia River dams on salmon resources (-$289,000). Another cut proposed for FY 84 would eliminate Atlantic salmon research (-$100,000).

On the Columbia River many salmon stocks are on the decline because of habitat loss primarily due to water resources development, pollution and poor forestry practices. The government's responsibility to aid in fisheries development and restoration on the Columbia River was clearly stated in the

Mitchell Act of 1938 (P.L. 75-502 as amended in 1946, P.L. 79-676). This Act authorized the Columbia River Fisheries Development Program, which was to ensure the government's role in mitigating the effects of large hydroelectric projects on the Columbia River. Major fisheries problems still exist on the river because of water resource facilities development and hence the government's responsibility still clearly exists to help mitigate those effects.

The NWF requests that Congress reject these cuts to salmon research and provide full funding of the program (+$389,000).

Aquaculture Research and Development. The federal government proposes to cast off all responsibility to the infant aquaculture industry by eliminating the 66 position $5,343,000 Aquaculture Research and Development Program. High financial risk and highly technical fish and shellfish culture projects will supposedly be continued by private industry, the states, or "other" federal agencies.

Perhaps industry should fund more aquaculture ventures, but abandoning an infant industry that has as its goal the farming of our oceans is, as the saying goes, penny wise and pound foolish. Some federal assistance to this industry is warranted. Many aquaculture ventures are small and risky enough without having to conduct the basic research required to make aquaculture a viable industry and valuable use of our waters.

The NWF recommends that the aquaculture program be continued. But we feel a gradual phase-out of projects yielding little advance could be undertaken. We suggest that funding for aquaculture be set at $3,366,000; this funding level departs from the FY 84 base by -37% (the proposed funding reduction average for all NMFS programs).

Marine Recreational Fisheries Program. The proposed budget reduces by 13 positions and $633,000 the marine recreational fisheries program. Other than funding for the marine recreational fishing survey (which also is proposed to be cut), little if any direct programmatic monies in the NMFS budget can be identified as directly benefiting recreational fisheries. Yet there are many more marine anglers than commercial fishermen, and the economic benefits resulting from marine recreational fishing are greater than those from commercial fishing. Marine recreational fishing is both a big business and a major American sport.

Recently the NMFS reorganization has spread responsibility for administering the marine recreational fishing program throughout all of the NMFS. The NWF recognizes the potential benefits of such reorganization and hopes soon to see the positive results of the "new" NMFS recreational fishing policy. However we also recognize a need to specifically direct monies toward research and other activities of benefit to the angler.

The NMFS presently is funding a program to inform people in foreign countries of fishing opportunities in the U.S. which is complimenting information and advertisements found in most popular outdoor magazines. But why is the NMFS cutting the few service programs, research, and assessments that benefit the American angler?

The NWF strongly recommends that Congress direct the NMFS to make every effort to identify projects of value to anglers, and to fund such projects at appropriate levels, including adequate funding for research and management projects necessary for Fishery Management Plans that benefit primarily anglers (i.e., Coastal Migratory Pelagic Resources Management Plan of the South Atlantic and Gulf of Mexico). We therefore ask that no funding or positions be eliminated from the Marine Recreational Fisheries Program (+$633,000).

Fishery Oceanography and Survey Technology. The Fishery Oceanography and Survey Technology program is proposed to receive a cut of $922,000 and the loss of the Bay St. Louis (MS) Laboratory. This program provides for advancement of fisheries survey technology, an essential element in providing for the best and most efficient management of fish stocks.

The NWF recommends that adequate funding be restored for this program (+$922,000).

Salmon Treaty Research. Salmon stock assessment and research work in support of U.S. negotiations with Canada over salmon interceptions is proposed for elimination (-$1,735,000). Negotiations on a framework agreement to settle the dispute over salmon interceptions are in the final phases, with implementation of a workable plan hopefully to come in the near future. It has taken over a decade of hard work to get to this point, yet the collection of information that will aid in establishing the U.S. position is to be eliminated.

Last year the U.S. Senate, in Resolution 455, demanded a strong U.S. position in treaty negotiations.

Continued cooperative management of this resource demands strong U.S. participation in researching and monitoring these fish stocks. The U.S. cannot in good faith proceed with its treaty obligations without the Salmon Treaty Research Program.

The NWF recommends that funding be maintained at present levels for the Salmon Treaty Research Program (+$1,735,000).

Fisheries Industry Information

Recreational Fishing Survey. Proposed FY 84 budget reductions to the collection and analysis of marine recreational fishing information are of major concern to the NWF. The marine recreational fishing survey budget is to be slashed by $621,000 along with cuts to other ancillary fishery statistics projects.

Little is known about the marine fish angler, but present data do indicate that this sector of NMFS responsibility is of major and growing importance. Surveys will provide a measure of the importance of recreational fishing and its effects on the resource. Yet NMFS continues to largely ignore its recreational fishing program as the proposed FY 84 budget so clearly indicates.

The NWF urges Congress to reject the Administration's proposal to cut the recreational fishing survey budget (+$621,000) and to reaffirm for the NMFS the importance of providing service to this sector of the fishing community.

Information Analysis and Dissemination

Overall, the Information Analysis and Dissemination Program will receive a fairly minor 5% cut in personnel and funding. Unfortunately cuts to the program are almost entirely to be absorbed by two important habitat analysis activities.

Work on the structure and function of estuarine and near-shore ecosystems and fisheries conducted at the Beaufort (NC) Laboratory would be cut by 12 positions and $635,000. And, work on environmental management activities at the Sandy Hook (NJ) Laboratory would be cut by 2 positions and $103,000 (these reductions, in addition to the proposed loss of 22 positions and $2,106,000 for Sandy Hook's ocean pulse project, will gut work at that lab). Continued work at these labs is essential to assess the effects of near-shore contaminants on marine resources and further our understanding of near-shore ecological processes.

The NWF recommends continued funding of these two projects (+$738,000).

Conservation and Management Operations

Fisheries Management Programs

Regional Fishery Management Councils. The proposed FY 84 reduction of 57% (-$4,300,000) to the budget of the Regional Fishery Management Councils would cripple the present system of fisheries management as Congress intended under the Fishery Conservation and Management Act. Last year the Administration proposed a $3,300,000 cut to the Council's budget. Congress recognized the consequences of such a funding reduction to fisheries management and restored funding. This year the Administration again proposes to reduce Council funding and has compounded the proposed FY 83 reduction by an additional $1 million for FY 84. Also proposed is a standstill in new Fishery Management Plan (FMP) development and reduction of the formal and public meeting schedule for the Councils.

It is the responsibility of the eight Regional Fishery Management Councils to develop Fishery Management Plans (FMPs) that optimize the use of our ocean fisheries resources on a sustaining basis. The Councils are also responsible for amending FMPs as conditions change; they must be responsive to the day-to-day complex problems of managing a dynamic resource upon which competing demands are placed.

The Regional Councils oversee the management of a commercial and recreational catch worth billions of dollars. We feel that it is absurd to jeopardize this resource for a savings of a mere $4.3 million, yet this is what the Administration would do in proposing a 57% cut to the Regional Council budget.

These budget reductions seem especially unwise as more fisheries, and more complex fisheries, are coming under Regional Council management authority. The more fisheries that are managed, the more it will cost to implement the program; and, the more species managed as a unit, the more detailed and accurate FMPs will have to be. The need for increased scientific information and state-federal cooperation is inseparable in this process and requires adequate funding not only for the Regional Councils but also for programs such as anadromous fisheries, commercial fisheries research and development, habitat research, and resource surveys.

Cutting back on the number of fisheries to be managed rejects the purposes of our new fisheries management laws--to conserve fisheries by maintaining fishing at levels producing an optimal sustainable yield. Certainly it is inappropriate to manage fisheries that do not require management. But for the Administration's purposes, it appears that fisheries for which management is unneeded are simply fisheries for which FMPs have not yet been drafted.

As the excesses of previous exploitation of our fisheries resources are corrected, and the value of these resources increases, a commensurate commitment to continue effective management seems mandated. The role of the Regional Councils should be an active one. Just monitoring fish stocks is insufficient.

The NWF recommends that Congress restore $4.3 million in funding to the Regional Fishery Management Council budget.

Columbia River Hatcheries. The Administration continues to propose the abandonment of NMFS support and involvement in the Columbia River Fisheries Development Program. Last years' proposed FY 83 cut of $3,177,000 to the Program (Congress restored these funds) is rolled over for FY 84 and combined with an additional reduction of $3,777,000. Together these cuts represent a 70% reduction in hatchery funding that would totally withdraw NMFS support from 19 of 24 hatcheries and affect an estimated 90 million of the 120 million salmon and steelhead produced annually. Abandonment of this program would also end funding for fisheries enhancement, work on the effects of dams, and other fisheries facilities improvements on the Columbia River.

The 1938 Mitchell Act (P.L. 75-502) authorized appropriations for surveys and improvements in the Columbia River basin to benefit anadromous salmonids harmed by federal water projects, pollution, and deforestation. The Act was amended in 1946 (P.L. 79-676) and subsequently the Columbia River Fisheries Development Program was begun to mitigate the impacts to fisheries of the large federal hydroelectric and other water projects of the Columbia River basin. Federal responsibility to this role has not diminished. Since 1949 when Program funding began, over $128 million has been spent on hatchery operations (nearly 2 billion fish were reared and released in 1960-1980, amounting to about 75% by number and over 50% by weight of all Columbia River releases), clearance and improvement of over 2,000 miles of prime salmon rearing and spawning streams, screening of over 600 irrigation diversion ditches to prevent loss of fish, hatchery evaluation studies, hatchery improvement studies resulting in major advances in salmon culture, and the development of design and operation criteria for fish passage facilities.

The cost-benefit ratio of this program presently is estimated to be 1 to 5. The effect of Columbia River program cutbacks to the salmon and steelhead angler, the commercial fisherman, and international fisheries agreements will be far-reaching and potentially of great economic significance.

We recognize that transfer of hatcheries to states, as is proposed, may be an acceptble means to reduce federal expenditures. However, affected states are unprepared and unable to maintain these NMFS facilities. In addition, the Federal Government's responsibilities under the Mitchell Act to mitigate the fisheries effects of federal projects continues. Fish reared or naturally produced that are recruited to the oceanic and river fishery as a result of NMFS Columbia River Programs benefit the nation, not just residents of Washington or Oregon.

The NWF recommends continued NMFS participation in the Columbia River Fisheries Development Program and asks Congress to restore the proposed $6,954,000 cut from the FY 84 budget and also restore the $289,000 cut from the NMFS research program to determine the ecological effects of Columbia River dams (see elsewhere).

Habitat Conservation. The proposed FY 84 budget would reduce the Habitat Conservation budget by 30% (-$1,424,000) and personnel by 20% (-16 positions). This program provides environmental assessment and impact analysis services to fulfill NMFS consultation requirements mandated by Congress by various legislation such as the Fish and Wildlife Coordination Act, The National Environmental Policy Act, and the Clean Water Act.

Proposed reductions in habitat conservation work will be disproportionally spread between NMFS Regions. The greatest reductions will occur in the Northeast Region where funding will be cut by 72% (-$545,000) and personnel by 77% (-10 positions). Only three NMFS staff will be left to oversee the vast fisheries resources of the U.S. coast from Virginia northward to Canada. The Southeast Region will lose no personnel but will recieve a 40% cut in funding (-$545,000). The Alaska Region will lose 27% (-3 positions) of its staff and 38% (-$188,000) of the funding. The Southwest and Northwest Regions will lose no staff and only 10% (-$30,000) and 8% (-51,000) of their funding, respectively. The Habitat Conservation Program in the Washington Office would also receive staff reductions (22%; -2 positions) and funding losses (27%; -104,000).

Recently NMFS biologists in the Southeast Region detailed the importance of the Habitat Conservation Program.[1] An overview of the program's value to Southeastern fisheries follows.

The southeast Region of NMFS extends from North Carolina to Texas and includes Puerto Rico and the Virgin Islands. This area includes nearly 30,000 miles of tidal shoreline and 60% (17.2 million acres) of the remaining estuarine habitat in the contiguous United States. About 96% of all commercial and over 50% of all recreational fish and shellfish harvested in this region are estuarine-dependent. This represents about 43% of the total commercial and 58% of the total recreational U.S. landings.

This complex fisheries habitat is threatened by municipal and industrial waste disposal, water diversion, channelization, dredging and filling, real estate development, mineral and energy exploration, and other man-induced changes to the environment.

In the Southeast, 13 biologists are responsible for providing comments on over 6,000 permit applications yearly from developers proposing various projects. Because even present staffing is inadequate to conduct on-site evaluations, NMFS contracts much of its work. Data collected by consultants are evaluated by NMFS biologists.

During a full year starting from October 1980, the Southeast Regions's Habitat Conservation Program reviewed 6,399 permit applications. No objection was raised for 4,651 (73%) of these because impacts were thought minimal. Contractors collected data for 1,380 (22%) permit applications, while the remaining 5% were not assessed due to varied reasons. The 1,380 permit applications carefully reviewed proposed nearly 18,000 acres be dredged, filled, or impounded (over half of that acreage to be lost in Louisiana alone). The NMFS found no objection to the proposed alteration of about 4,600 acres, recommended that about 13,400 acres not be altered, and proposed modification of about 3,324 acres. Therefore, the Habitat Conservation Program was responsible for conserving nearly 17,000 acres of habitat in that year alone. Habitat so preserved was worth an estimated annual $33 million to the commercial and recreational fishery.

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[1] Lindall, William N. and Gordon W. Thayer. 1982. Quantification of National Marine Fisheries Service Habitat Conservation Efforts in the Southeast Region of the United States. Marine Fisheries Review 44(12):18-22.

In the past, completed reviews in the Southeast Region were furnished with no delay 97% of the time and for the entire NMFS program, FY 74 through FY 80, out of 87,307 permits reviewed, only 20 (0.0002%) were elevated to the Chief of Engineers, Assistant Secretary, or Secretary of the Army. Modifications proposed to permits resulted in an average 15% dollar saving on project costs to developers without halting development itself.

The NWF strongly recommends against any cuts to the Habitat Conservation Program. Our wetlands and near-shore habitats must be maintained for the future of America's fisheries resources. We hope Congress will affirm the importance of habitat conservation and restore funding to this program (+$1,424,000).

State and Industry Program

Grants to States

The proposed FY 84 budget would eliminate all grants to states (-$7,000,000) under two programs providing major benefits to the nation:

Anadromous Fish Conservation Act. The Anadromous Fish Conservation Act (AFC) (P.L. 89-304) grants to states would be eliminated under the Administration's proposal (-$3,000,000). This program has provided enormous benefits to the anadromous fisheries resources of the nation. The cost-benefit ratio has been 1 to 16 for monies spent under Section 4 of the Act, which provides matching grants to states.

Recently, Fishery Conservation and Management Act amendments (P.L. 97-389) authorized appropriations at a level of $7.5 million for each of the Fiscal Years 1983, 1984, 1985 for Section 4 of the AFC and authorized appropriations of $1 million for each of Fiscal Years 1983 and 1984 for Section 7 of the AFC (Emergency Striped Bass Study).

Authority under the AFC is split between the NMFS and the U.S. Fish and Wildlife Service. The state-federal partnership spawned as a result of AFC grants has been among the most productive in enhancing our nation's fisheries resources.

Anadromous fish constitute a resource that by their very nature are a shared state-federal responsibility. These fish spawn in states' waters, but as adults migrate freely in the ocean and across states' boundaries, and, in some cases such as the Atlantic salmon, between nations. Clearly, the elimination of Section 4 grants is a repudiation of federal responsibility to support research, management, and enhancement of shared fishery resources. In addition, elimination of this program will sacrifice the major investments of over a decade in ongoing research and data collection.

A good example of the successful use of the state-federal grants can be seen in the restoration of American shad and blueback herring to a single section of the Connecticut River in Massachusetts. In the early 1970s, only about 50,000 anadromous fish per year passed over the Holyoke Dam on the Connecticut River in Massachusetts. By 1976, nearly 400,000 fish passed over the dam, and by 1981, the run of fish in that location exceeded one million. This dam was the first over which fish were passed in the re-establishment of the Connecticut River anadromous fish run. Upriver, two additional dams were recently retrofitted with fish passage facilities, and at dams farther upstream, plans for fish passage facilities have already begun.

On this same river system, the return of the highly prized Atlantic salmon has been equally dramatic. Starting with the return of a single fish in 1974, the numbers of Atlantic salmon that moved into the Connecticut River to spawn rose to 7 in 1977, 175 in 1980, and in 1981 a total of 553 Atlantic salmon ascended the River.

Who benefits? Certainly, anglers in the four states bordering the Connecticut River benefit, as do recreational and commercial fishermen along the coast because these Connecticut River anadromous fish migrate along the Atlantic Coast from North Carolina to Maine and into Canadian waters. The shared nature of this resource demands federal involvement. But the Connecticut River is only one of several Northeastern rivers undergoing intensive restoration efforts that would collapse without AFC grants. Restoration of anadromous fish to the Penobscot, Merrimack, Pawtucket, and Susquehanna Rivers would be jeopardized under the Administration's proposal.

The NWF is also deeply concerned about the anadromous striped bass. In 1982, NWF passed a resolution (attached) that expressed extreme concern that striped bass be properly managed and that funds be provided for Section 7 of AFC, commonly known as the Emergency Striped Bass Study. The proposed NMFS budget includes no money for Section 7.

The striped bass is one of America's most esteemed game and food fishes and it has been a staple for commercial fishermen since colonial days. Presently the East Coast population of striped bass is depressed.

The Emergency Striped Bass Study was implemented to monitor the status of striped bass stocks and to determine factors responsible for their decline. These studies were coordinated with other state and federal activities to provide the information base from which to develop management plans and to determine the causes of the striped bass decline. Since the initiation of the Study, funding has not been appropriated at authorized levels.

A fishery management plan to aid the recovery of the fish has been adopted by the affected states. Section 7 funding was to have aided in assessing recovery efforts, but research to date has not provided exact answers, only new directions. Research has pointed to the inadequacies of present knowledge on the species. Continued funding is needed if we are to reverse the present stock trends by applied fisheries management techniques short of banning all fishing for the species and gearing up a terribly expensive and perhaps futile hatchery effort.

The NWF urges Congress to reject the Administration's proposal to eliminate AFC grants to states. We recommend that $3,750,000 be provided for Section 4 and that $500,000 be provided for Section 7. We also hope these amounts will be matched by contributions from the U.S. Fish and Wildlife

Service's budget so that AFC's Sections 4 and 7 are funded at authorized levels.

Commercial Fisheries Research and Development Act. The proposed FY 84 budget would eliminate funds for Section 4(a), grants to states, of the Commercial Fisheries Research and Development Act (P.L. 88-309). Recent amendments to the Act (P.L. 97-389) authorized $5 million for each of Fiscal Years 1984 and 1985 for Section 4(a), reaffirming Congress' intent that this state matching grant program be maintained and funded appropriately.

Projects that would be curtailed by the Administration's plans include commercial fisheries statistics, assessment of offshore fisheries resources, assessment of Great Lakes fisheries, studies of estuaries, etc. Such studies are essential to the development and continual update of Fishery Management Plans, and in general, to the responsible management of anadromous and marine fisheries resources. Because of the state-federal responsibility for the resources that are addressed by these funds, there is a clear need for continued federal involvement. The Administration's concern that programs exclusively benefiting individual states be paid for by those states is certainly reasonable, but the significance of the Fisheries Research and Development Program to the nation is clear. Although states receiving grants do benefit, so do all America's citizens when by proper management of our fisheries, these resources yield an optimal harvest on a continued basis for all fishermen, both commercial and recreational.

The NWF recommends that Congress restore $4 million to the NMFS budget for Section 4(a) of the Commercial Fisheries Research and Development Act.

Foreign Fishing Observer Fund

Increases to the Foreign Fishing Observer Fund (+5,050,000) are proposed for FY 84 to provide greater observer coverage of foreign fishing vessels. Full observer coverage will ensure foreign fishing vessel compliance with U.S. fishery conservation laws and regulations. In addition, added coverage will allow greater collection of catch data and other fisheries statistics that will enhance our ability to manage U.S. fisheries resources. The NWF agrees that observer coverage must be increased. Funding for this program is derived from assessments on foreign vessels allowed to fish the U.S. Fishery Conservation Zone. Money paid to the U.S. for 100% observer coverage should be used to provide 100% observer coverage.

The NWF asks Congress to continue to emphasize that NMFS provide complete observer coverage on foreign fishing vessels.

Program Support (NOAA)

Executive Direction and Administration

Administration. In addition to the severe program reductions to the NMFS, the FY 84 NOAA budget includes reductions for administrative support of the Marine Fishery Resource Program (-$1,692,000). Provided that Congress restores funding to fisheries programs, it is important that commensurate increases to NMFS administrative support be included in the budget. We feel sure that Congress will not allow the Administration to gut the NMFS and we hope that administrative support is not withdrawn, too.

Based on our funding recommendations that were greater than those proposed by the Administration for FY 84, we estimate that an added $1,149,000 would be required for administrative support to NMFS programs for FY 84.

GENERAL NOAA PROGRAMS

We wish to point to several other valuable NOAA programs ancillary to the NMFS fisheries effort that would be severely cut or eliminated for FY 84. The management and conservation of fisheries require a large data base and research of a varied nature. The information needed for management and conservation is not obtained only from NMFS program activities, but also from other valuable NOAA programs. Maintaining or enhancing these NOAA programs is critical to the proper conservation of all our ocean resources.

Ocean and Coastal Program

Sea Grant Program. Termination of the Sea Grant Program is proposed (-$35 million). This program is a nationwide effort to develop and protect America's marine resources for our maximum use through the application of academic expertise in a balanced approach that brings together social and natural scientists, economists, legal experts and engineers. Primary activities are in fisheries biology and technology, aquaculture, mineral resources, offshore structures, and coastal protection. The Administration proposes that Sea Grant Colleges look to "other government and private sources" for support. The NWF views the Administration's disposal of the program as short-sighted and hopes that the Congress reconsiders the proposed termination of Sea Grant in FY 84 and maintains this valuable program (+$35 million).

Ocean and Great Lakes Assessment and Research. The FY 84 budget proposes a nearly 50% reduction to important research and assessment work on ocean dumping (-$6,833,000), the Great Lakes (-$2,478,000), and the Chesapeake Bay (-$250,000).

Ocean dumping projects to be ended include offshore contaminant work in the Puget Sound (-$1,097,000), the New York Bight and Hudson-Raritan Estuary (-$1,532,000), and the Northeast Monitoring Program (-$460,000).

The proposed drastic cuts in NOAA's ocean dumping budget are incomprehensible and indefensible. The NOAA's most recent "National Marine Pollution Program Plan," covering Fiscal Years 1981-85, characterizes Marine Waste Disposal as "one of the most important areas" in the entire National Marine Pollution Program. The Plan identifies extensively the unfulfilled needs relating to marine waste disposal. The proposed cuts make a mockery of the planning process established under the National Ocean Pollution Planning Act of 1978 (P.L. 95-273). NOAA itself projects an increase in sewage sludge ocean dumping--much of it in the Northeast--of upwards of 130 percent by the end of the century. Reductions in offshore contaminant work in the New York Bight would be a tragic step in the wrong direction.

The termination of funding for Great Lakes work will close the Great Lakes Environmental Research Laboratory (Ann Arbor) and compromises our nation's ability to contribute fairly to Great Lakes international agreements, studies, commissions, and programs. Programs of the Great Lakes lab provide an ecosystems approach to problem solving, aiding resources managers and providing environmental services in support of valuable international and national resource efforts.

In terminating Chesapeake Bay studies, the Administration cites benefits of the work as accruing only to "local jurisdictions." Nothing could be further from the truth. This nation's largest and most productive estuary, the Chesapeake Bay, is clearly a major national resource. For example, it supports up to 90% of the East Coast's striped bass run, extending from North Carolina into Canada. The problems of the Bay are many and growing. To dismiss this resource, and its enormous impact on the nation's people and economy, by stating it is of no national concern is an outright evasion of responsibility.

The NWF requests that the Ocean and Great Lakes Assessment and Research programs be closely evaluated and that full support and funding be provided to maintain work on ocean dumping, the Great Lakes, and the Chesapeake Bay (+$9,561,000).

National Advisory Committee on the Oceans and Atmosphere

The FY 84 proposal would eliminate the National Advisory Committee on the Oceans and Atmosphere (NACOA) (-$551,000), which is a non-federal body whose 18 members have an interest and expertise in ocean and atmospheric affairs. The NACOA exists to review our nation's marine policies and programs and reports to the Congress and the President, provides special reports, and most importantly, advises the Secretary of Commerce in the administration of NOAA programs. The Administration feels the "...Nation's atmospheric and marine policies and programs can be effectively carried out by the involved agencies..." The NWF considers such a move by the Administration as dangerous and certainly not in the best interest of the American public. We hope the Congress will see the wisdom of non-federal review of NOAA programs and policies. We ask Congress to maintain NACOA (+551,000).

Summary of National Wildlife Federation Recommendations
on the National Marine Fisheries Fisheries Service FY 84 Budget

Program	NWF recommended additions to Administration's proposed budget[1] (in thousands of dollars)	Additional NWF recommendations
Information Collection and Analysis		
Resource Information		
Resource Surveys	1,078	
Habitat Research	4,543	
Salmon Research	389	
Aquaculture[2]	3,366	gradual phase out of some projects
Marine Recreational Fisheries	633	institute projects of primary benefit to anglers
Fisheries Oceanography and Survey Technology	922	
Salmon Treaty Research	1,735	
Fisheries Industry Information		
Recreational Fishing Survey	621	reaffirm the need to provide service to anglers
Information Analysis and Dissemination[3]	738	
Conservation and Management Operations		
Fisheries Management Programs		
Regional Fisheries Management Councils	4,300	
Columbia River Hatcheries	6,954	
Habitat Conservation	1,424	
State and Industry Program		
Grants to States		
Anadromous Fish[4]		
Section 4	3,750	
Section 7 (striped bass study)	500	
Commercial Fisheries Research and Development	4,000	
Observer Program[5]	5,050	Maintain 100% observer coverage of foreign fishing vessels
Program Support		
Administration[6]	1,149	
Other NOAA Programs of Significance to Fisheries		
Ocean and Coastal Programs		
Sea Grant	35,000	
Ocean and Great Lakes Assessment and Research		
Ocean Dumping	6,833	
Great Lakes Programs	2,478	
Chesapeake Bay Programs	250	
National Advisory Committee on the Oceans and Atmosphere	551	

FOOTNOTES

1. Recommendation equals FY 84 base level funding except where indicated (base level is the level of funding required to maintain programs at present activity level).
2. Increase of 63% above FY 84 proposed.
3. Restoration of funding to programs at Sandy Hook (NJ) and Beaufort (NC) Laboratories.
4. Increase to levels authorized by Congress.
5. Equal to FY 84 proposed increase.
6. Level above FY 84 proposed necessary if NWF recommended funding levels accepted.

Resolution No. 14

STRONGER MANAGEMENT EFFORTS FOR MARINE STRIPED BASS POPULATIONS

WHEREAS, pressures on this limited resource are strong and increasing due to the high market value of marine striped bass and growth of recreational and commercial fishing industry, despite a decline in population levels;

WHEREAS, the major Chesapeake Bay spawning areas have not produced a dominant year class of the species since 1970; and

WHEREAS, the species and its fishery occur predominantly within three (3) miles of the coast from Maine to North Carolina, management jurisdiction for marine striped bass resides with the states rather than the Federal Government, and

WHEREAS, this coastal migratory stock is subject to varying laws and regulations of twelve (12) states and two (2) interstate commissions with a lack of coordination or cooperation; and

WHEREAS, many attempts have been made to manage this fishery in the past, but these attempts thus far have been unsuccessful. The present magnitude and efficiency of both commercial and recreational fisheries may deplete the resource levels from which recovery is slow or impossible; and

WHEREAS, funding for research is too limited and uncoordinated;

NOW, THEREFORE, BE IT RESOLVED that the National Wildlife Federation, in annual meeting assembled March 18-21, 1982, in Milwaukee, Wisconsin, hereby recognizes that the migratory marine striped bass which ranges from Maine to North Carolina is a species in need of stronger management efforts, including greater cooperation among the states and commissions responsible for its welfare; and

BE IT FURTHER RESOLVED that this organization stresses the vital and urgent need for continued funding under present legislation to satisfactorily conclude the mandate encompassed in the Chafee amendment to Public Law 89-304.

ATLANTIC STATES MARINE FISHERIES COMMISSION

STATEMENT OF IRWIN M. ALPERIN, EXECUTIVE DIRECTOR, ATLANTIC STATES MARINE FISHERIES COMMISSION

STATE-FEDERAL COOPERATION OF MARINE FISHERIES

Senator SPECTER. Mr. Alperin, we welcome you here and look forward to your testimony.

Mr. ALPERIN. Mr. Chairman, I am Irwin Alperin, executive director, Atlantic States Marine Fisheries Commission, and Ralph Arpel, the executive director of Pennsylvania, is our vice chairman this year.

I am here today on behalf of our 15 Atlantic members and also for related activities, the executive director of the Pacific Marine Fisheries Commission, its five member States, and Mr. Charles Lyles, the executive director of the Gulf States Marine Fisheries Commission and those five member States.

We are here to request a restoration of funds for Public Law 88-309 and Public Law 89-304, the Commercial Fisheries Research and Development Act and the Magnuson Fishery Conservation and Management Act.

I am going to be very brief. I would ask that my full testimony be added. We have supplied extensive written testimony, but there are some statements that you and the staff will be interested in.

I also have a statement from the International Association of Fish and Wildlife Agencies that I would like to enter for the record because they support our position on the need for these grants, giving them the highest priorities.

Senator SPECTER. Mr. Alperin, they will both be made a part of the record in full.

Mr. ALPERIN. Mr. Chairman, I come before you to ask for the continued vitality and productivity and State-Federal partnership for conservation and proper management of our shared coastal fishery resources.

We categorically reject and discard the position of the administration that the Federal Government, in this economy, should abdicate its responsibility of sharing increasing management functions by withdrawing all Federal support for essential fisheries programs under these two acts.

Instead, we join with your distinguished colleagues on the Senate Committee on Commerce, Science, and Transportation in urging that these two programs be funded in fiscal year 1984 at the levels of $3.2 million for fisheries and $5 million for the Commercial Fisheries Research Development Act. I could go on to say a lot more, but because time is short, if my statement is added to the record, I think that it will be well understood.

These are 18- and 19-year-old programs, cost the Federal Government very little, and they are all shared by the States. We work together and fisheries, our marine fisheries, are dependent on Federal and State cooperation.

Senator SPECTER. Thank you very much, Mr. Alperin.

[The statement of Irwin M. Alperin follows:]

PREPARED STATEMENT OF IRWIN M. ALPERIN
EXECUTIVE DIRECTOR
ATLANTIC STATES MARINE FISHERIES

Mr. Chairman, Members of the Committee.

I am Irwin Alperin, Executive Director of the Atlantic States Marine Fisheries Commission, and I am here today on behalf of our 15 Atlantic Coast States and also for Dr. John Harville, Executive Director of the Pacific Marine Fisheries Commission and its 5 member states, and Mr. Charles Lyles, Executive Director of the Gulf States Marine Fisheries Commission and its 5 member states. We three have provided more extensive joint written statements for the convenience of the Committee and your staff, on the two programs upon which we wish to comment. For all three Commissions I want to thank you for this opportunity to represent their interests before this Subcommittee for the purpose of expressing our views on the essential nature of these two modest, costsharing, grant programs - the Commercial Fisheries Research and Development Act and the Anadromous Fish Conservation Act.

Also, in addition to my own oral testimony on behalf of the three coastal fisheries commissions, with your permission; I would offer for the record a statement outlining the views of the International Association of Fish and Wildlife Agencies relative to the National Marine Fisheries Service Budget. This statement reflects the spending priorities - including highest priority for the grant programs P.L. 88-309 and P.L. 89-304 - established for this 50 state organization at a meeting of its Ad Hoc Federal Budget Committee here earlier

this year. We three Marine Fisheries Commission executive directors actively participated in those deliberations.

Mr. Chairman, I come before you to demonstrate the common concerns of all 24 coastal states for the continued vitality and productivity of the State-Federal partnership for conservation and provident management of our shared coastal fisheries resources. We categorically reject the misguided position of the Administration that the Federal government, in the name of economy and the New Federalism, should abdicate its responsibility to share in these regional management functions by withdrawing all Federal support for essential fisheries programs under the Anadromous Fish Conservation Act and the Commercial Fisheries Research and Development Act. Instead we join with your distinguished colleagues on the Senate Committee on Commerce, Science, and Transportation in urging that these two programs be funded in FY 1984 at the levels of $3.2 million for Anadromous fisheries and $5.0 million for the Commercial Fisheries Research and Development Act.

These two programs share certain important values and for purposes of this afternoon's hearing, I'll summarize them together.

First and foremost, both programs implement the Congressional intent that fishery resources subject to multiple jurisdictions, State and Federal, shall be managed and conserved cooperatively in the national interest. These two programs bring together Federal dollars and State dollars, and Federal fisheries scientists and managers and their State counterparts, to carry out the research, data collection, and resource assessments essential to judicious management of some of this Nation's

most valuable renewable natural resources. Nothing better illustrates the need for this State-Federal cooperative effort than do our anadromous fisheries such as salmon and striped bass. Because anadromous species spawn in freshwater and spend the bulk of their adult lives in the sea, of necessity they must migrate through waters controlled by the sovereign States, into the territorial seas and more offshore waters, where management control is national, and for salmon, at least, often international. Clearly we need the national mandate and national support established by Congress to foster and maintain regional coastwide approaches to regional coastwide problems. We cannot accept the short-sighted Administration position that somehow in the interest of economy these regional programs should be scuttled and the intent of Congress be thereby set aside. These are not just State problems and State projects to be dumped back on the States - they are regional, sometimes coastwide, problems and projects, and therefore, very much in the national interest. Dollars provided to these programs, on a costsharing and cost-effective basis by State and Federal governments, should be viewed as investments in future economic and social benefits. These dollars, therefore, should be buget commitments to be protected as provident uses of public funds for the national welfare.

Our second major point relates to the demonstrated productivity of these well-established programs: State-Federal cooperative projects under these Acts carry forward relevant research, monitor the changing status of fisheries, and produce a flow of data essential for continued conservation and management of these exceptional natural resources. Particularly for fisheries subject to management under adjacent State and State-Federal jurisdictions, including most fisheries subject to Regional

Fishery Management Council management established under the terms and provisions of the Magnuson Fishery Conservation and Management Act of 1976, State and Federal sharing of program responsibility is essential.

Mr. Chairman, a very large share of the information base out of which our State-Federal Fishery Management Program, our Interstate Fisheries Management Program and Regional Fishery Management Council's Program develop their management plans are the products of years of dedicated research and data production under these two Acts and the ability of States and Councils to revise and improve management of regional fisheries continues to depend upon this research and data flow.

One other consensus issue, Mr. Chairman, that should be emphasized is the potential values to the U.S. economy and the U.S. public welfare. Improved productivity of existing fisheries and development of U.S. capability to harvest, process, and market presently accepted and underutilized fishery resources will return major economic benefits to the U.S. fishing industry. As the industry fully implements its preferential right to resources within the State's and Federal governments jurisdiction, (i.e. the Fishery Conservation Zone), the U.S. can achieve a significant reduction in the $3.0 billion negative foreign exchange balance in fishery products by increasing exports of U.S. fishery products and reducing dependence on imported fish.

In my remaining time I'd like to present some recent important Atlantic Coast activities that are at least partially dependent on the continuation of these costsharing programs.

Because there are 14 relatively small sovereign state jurisdictions along our Coast through which many species of commercial and recreational fisheries interest must pass, it has been historically extremely difficult to develop common interjurisdictional regulations for the wise use of these shared fisheries resources, but we are now making concerted efforts to do so. In the past 2 years our Commission has adopted state/federal-developed regional management plans for some of our most important shared fisheries - for striped bass (until recently of exceptional recreational and commercial fishery excellence), for Atlantic menhaden (our Nation's largest volume fishery), and for Summer flounder (in great demand in commercial and recreational fisheries as superior table fare). Additionally, we have teams at work developing FMPs for two other groups - the American shad and 3 other species of anadromous river herrings and three species of seatrouts that are badly in need of cooperative interjurisdictional management. In all, our scientists and managers have agreed that there are at least 14 or 15 species and species groups that will benefit through this mode of cooperative management and help provide for the continuous demand for food and recreation from the sea around us. But, Mr. Chairman, we have long ago learned that we States cannot do it alone. There is need for close cooperation between State and Federal agencies and we need the modest financial support - matched by the States - available through P.L. 88-309 and 89-304 grants.

Of special significance to Atlantic Coast States is funding for Section 7, the Emergency Striped Bass Study, of the Anadromous Fish Conservation Act. Within the migratory range of striped bass from North Carolina to Maine (a 12 state area) there has been a severe reduction, since 1973, in the numbers of these popular fish. During peak years of 1970 and 1973 commercial landings registered 11.6 million and 14.7 million pounds respectively. But landings in 1979 were merely 3.1 million pounds, the lowest reported in the last 30 years up to then. The commercial landings have decreased even further in 1981 and

1982. The recreational catch which could be measured in multimillions of fish is now reduced to thousands. Section 7 of P.L. 89-304 has provided 3 years of funding to explore the causes of this precipitous, persistent decline in abundance of this highly regarded species, examining the species as well as the environmental factors to get at the root cause for unsuccessful spawning and the failure of the survival of eggs, larvae and juveniles. Many institutions participate in this comprehensive program: the National Marine Fisheries Service, the U.S. Fish & Wildlife Service, a half-dozen universities, 12 coastal states of the Atlantic States Marine Fisheries Commission and others. Many hypotheses have been tested, but the factors for the decline remain elusive. There is evidence accumulating, however, that toxic substances - organic and inorganic (hundreds have been discovered in the water and in the flesh of the fish) - in certain combinations may prevent fertility, hatching success and/or survival of early life stages in the principal spawning rivers and nursery areas. Now that Section 7 has been reauthorized for appropriations for an additional 2 years, it would be disastrous to discontinue funding support for the array of investigative studies when many of the participants believe the answers will be forthcoming. In the meanwhile, the ASMFC has developed, adopted and recommended for implementation by the affected States a management plan for the conservation of the striped bass resource, with provisions for continuing monitoring and assessment of stocks, and incorporation of significant findings from the multifaceted Emergency Striped Bass Study. We are firm in our belief that this great cooperative effort should not abruptly terminate for lack of funding now that success is in sight.

There are many other examples of the successful application of funds from these State-Federal cooperative grant programs outlined in our written testimony. We urge you to help us assure the future of these cost-effective enterprises by

restoring funding for P.L. 88-309 and P.L. 89-304 in the FY 1984 budget for the National Marine Fisheries Service. You will be assisting the states and through them the fishing industry to turn around our negative foreign trade balances which are presently seriously hurting our economy.

Thank you, Mr. Chairman

PREPARED STATEMENT OF WES HAYDEN

LEGISLATIVE COUNSEL

INTERNATIONAL ASSOCIATION OF FISH AND WILDLIFE AGENCIES

Mr. Chairman, the International Association of Fish and Wildlife Agencies welcomes this opportunity to have a part in your Committee's examination of the National Marine Fisheries Service Budget for Fiscal 1984.

As an organization committed to balanced fisheries resource conservation, management and development, we have a manifest interest in the programs being operated under NMFS jurisdiction and direction, particularly those with a high potential for effective state-federal coordination and cooperation and with special significance for our members in the 50 state fish and wildlife agencies.

It is in that context that I share with your subcommittee our deep concern over the truly devastating impact which the massive spending cuts being mandated for the Service can have on those programs.

But our apprehension goes even beyond that immediate effect and also reflects our misgivings about the future outlook for the Service itself unless the trend evident in the current budget is reversed.

As we indicated in testimony before this subcommittee a year ago, there is a real and serious question in our mind whether any agency can absorb a one-third reduction in its operating funds in a single year and continue to function effectively over a protracted period of time in carrying out its primary mission.

Pursuing that thought one step further, there may be reason to wonder if there is in this situation the portent for possible change and even a limitation of that mission. Marine resources, like those in agriculture and energy fields, are essential to this nation's productive capacity. The primary NMFS mission has been stewardship of those resources.

And what we find especially disturbing in that regard is the fact that most of the cuts being proposed in Fiscal 1984 spending for NMFS are in the same areas, and in the same or greater amounts than those sought under the Fiscal 1983 budget but restored to a substantial degree by Congress. We can only conclude that the Administration and Capitol Hill have differing sets of priorities where the NMFS mission is concerned.

In light of that we suggest that the reductions now proposed warrant close scrutiny and detailed discussion.

The statement we offer today will be intended for that purpose. Meanwhile, I will summarize briefly our primary recommendations with respect to them as determined by the Association's Ad Hoc Federal Budget Committee earlier this year.

The Association is particularly concerned by the focus of budget reductions upon the NMFS role in research, fish stock assessment, data collection and analysis, and other scientific functions essential to conservation and effective management of our marine fisheries resources. The Association finds this abandonment of federal responsibility for developing the information base for resource management decisions particularly incomprehensible in light of recent Congressional actions to give the U.S. fishing industry priority access to the rich fishery resources of the 3-200 mile Fishery Conservation Zone, and thereby provide opportunity to rebuild the U.S. capability to harvest those resources for the economic benefit of the nation and for the strategic benefits which attend the production of important food resources. The United States still imports more than half the fish needed for food, and at a staggering cost in negative foreign trade balance. How can this nation afford to eviscerate the research capabilities of its national and state agencies which are responsible for developing the information base for conservation and wise use of its fishery resources?

To illustrate, the proposed budget would lay-up the NOAA fleet, which provides the ocean platforms for resouce assessments, oceanographic investigations, baseline ecological studies, and other scientific work absolutely essential to effective planning for long-term use and development of our fisheries. While the Association accepts the view that some of the work previously carried out by the NOAA fleet can be contracted to other vessels, not all studies can be addressed on such an ad hoc basis. Year-by-year replication of surveys requires standardization of vessel operations and gear for which in-house control of vessel operation is essential.

Even more devastating, the budget proposes a 30 percent overall cut in funding for information collection and analysis. Within that general category, fish resource information derived from sea survey work would be cut 38 percent, thus further attenuating the flow of data required by the Regional Fishery Management Councils to develop and implement Fishery Management Plans in accordance with the Congressional mandate under the Fishery Conservation and Management Act of 1976. NMFS is also faced with a 30 percent cut ($1.5 million) in the Marine Recreational Fisheries Statistics Program, currently the only effective mechanism of assessing the impact of marine recreational fishing upon fish stocks. Management of stocks fished by both commercial and recreational fishermen depends upon filling this heretofore serious gap in the data base.

Apparently as a component of this gutting of NMFS cpabaility for research, monitoring, and data assessment, the agency faces significant reductions in force and in funding for all of its research centers, and total closure of a number of satellite laboratories which have contributed extensively to our information base for management of fisheries. Targeted for total closure are stations at Oxford, Maryland, where major U.S. capabilities on fish and shellfish disease control are located, Galveston, Texas, site of shrimp and other shellfish researches, Bay St. Louis, Mississippi, concerned with improvements in fishery technology, Tiburon, California, where much of West Coast seashore fishery research takes place, and the Technical Laboratory at Gloucester, Massachusetts. These proposed closures can only further inhibit the developing ability of this nation to protect and wisely use the living resources of the sea for the benefit of our nation's food supply and economic status. How can this Administration call for increases in national productivity while at the same time it cuts away the research resources required to foster that productivity?

In a parallel abandonment of federal responsibility, the NMFS budget is designed to destroy the state-federal partnership which has been so effective in the past several decades in developing the information base on fisheries resources which at some time in their life cycles inhabit the territorial seas, bays, estuaries and rivers of our coastal states. The budget again proposes total close-out of the two Congressionally-established state-federal programs which have provided a major share of the data required for conservation and management of these resources under the Commercial Fisheries Research and Development Act and the Anadromous Fish Conservation Act. These programs are jointly funded by federal and state governments. Abrogation of the Federal obligation will cost us not only the data base required for regional managment of coastal and anadromous species, but also the cooperative spirit and drive which has enabled our states and the federal government to work effectively together over recent years on shared research and management of shared fisheries. These are not state programs, as the Administration chooses to characterize them--they are state-federal cooperative programs for conservation and management of regionally shared fishery resources.

The agency budget also proposes a crippling 57 percent reduction in funding for operation of the Regional Fishery Management Councils-- the regional bodies charged by Congress with development and implementation of Fishery Management Plans for management of fisheries in the 3-to-200-mile Fishery Conservation Zone. With such a reduction in funds, those Councils would be reduced to little more than caretaker entities, lacking resources for development or improving management plans. Again this is totally inconsistent with the need to achieve long-term productive management of the rich food resources made accessable to the U.S. fishing industry by the Fishery Conservation and Management Act of 1976. The Administration appears willing to forego the opportunity to gather for U.S. benefits the wealth and strategic advantages of utilization of living marine resources now largely going by default to foreign interests.

To sum up concerns and recommendations with respect to the NMFS conservation and management of marine fisheries, the International Association rejects as totally unacceptable the one-third cut in funding for these purposes proposed by the Administration for FY 1984. It is unconscionable that such a massive reduction be forced upon NMFS, particularly in view of the relatively sustained funding proposed for Department of Interior natural resources agencies.

As top priorities, the IAFWA urges restoration of at minimum the $7 million deleted for the Commercial Fisheries Research and Development Act and the Anadromous Fisheries Conservation Act. The Federal Government must not abrogate its responsibility to continue to participate with the states in financial support of these regionally essential cooperative research development and fishery monitoring programs. The IAFWA also accords high priority to restoration of the $4.3 million cut proposed for the Regional Councils and of the $15 million proposed reduction in fishery resource information programs. The IAFWA urges also a thorough reassessment of plans to take the NOAA fleet out of service, with restoration of sufficient funds to asure that resource surveys requiring long-term continuity and standardization of methods can be properly sustained.

Closely related to these direct management responsibilities are the habitat protection and general enforcement mission and capabilities of NMFS. Since maintenance of productive habitat is absolutely essential to maintenance of species dependent on those habitats, how can the agency be expected to reduce its already limited funding for habitat conservation by more than 50 percent? The Association urges restoration of the $4.54 million proposed reduction, particularly in view of the recently adopted NMFS policy document which proposes expanded initiatives and responsibilities in this area for the agency.

The IAFWA also finds inconsistent with established federal responsibilities the apparent intent of the Administration to abrogate obligations for mitigation of past damages to fishery resources by hydropower and other waterway developments, and the incomprehensible proposal for non-compliance with pending foreign treaty obligations. Specifically the Association objects strongly to deletion of support for Columbia River hatcheries, which are in mitigation of federal dam construction and water diversion from that important river system, and to the expressed intent to curtail river-of-origin studies of salmon of concern to U.S.-Canadian allocation decisions. The pending U.S.-Candian treaty for good-faith commitments by both governments to continue essential research and monitoring of these fisheries. How can the U.S. in good conscience proceed with treaty arrangements while at the same time its principal research arm (NMFS) is being forced to curtail the essential researches which are the underpinning for that treaty? The IAFWA insists that those researches be continued, and strongly recommends also that funds be restored in the amount of $2.1 million for the programs relating to Atlantic and Columbia River salmon.

The Association also objects to proposed curtailments of appropriate governmental assistance to the fishing industry. The Association will support continued careful review of the appropriate role of government with respect to the private sector, but it cannot believe that the already relatively small role of NMFS in fisheries development should be reduced from the $8.3 million level in 1983 to a proposed $2.75 million in 1984, a 69 percent reduction in governmental effort.

Similarly the IAFWA questions the rationale of a total abondonment of NMFS attention to aquaculture. Government should accept responsibilities for research and innovation in farming our seas analogous to that historically given to farming our lands. Experimental work on acquaculture problems should parallel that of agricultural experiment stations. It requires sustained efforts over a period of years in order to produce results. These studies provide best available opportunities to understand the fundamental biology and physiology of selected organisms which cannot be properly studied under natural wild conditions. The IAFWA, therefore, seriously questions the $5.3 million reduction in funds which, if approved, would terminate the NMFS aquaculture program.

The IAFWA continues to object to inclusion in the NMFS budget of funds to be used for observer program for foreign fishing operations. These funds are not properly a part of the agency budget. They are derived entirely from assessments upon foreign vessels fishing under permit in the FCZ. Congressional action established a special fund for those funds with the intent that they would be used directly and execlusively to fund our observer program. Funds derived from non-federal sources and for this dedicated purpose should not be incorporated into the general NMFS budget either for purposes of budget planning and allocation or for budget review. This problem has plagued the agency for years and should be rectified once and for all.

Your courtesy in receiving these views is most appreciated. Hopefully they will contribute to a full discussion of the issues and problems concerned and to the search for realistic and appropriate solutions. Our organization will look forward to the prospect of working with your committee in any appropriate way to that objective.

Atlantic States Marine Fisheries Commission

Joint Statement of:

Irwin M. Alperin, Executive Director
Atlantic States Marine Fisheries Commission

John P. Harville, Executive Director
Pacific Marine Fisheries Commission

Charles H. Lyles, Executive Director
Gulf States Marine Fisheries Commission

Mr. Chairman, the three interstate marine fisheries Commissions, representing 24 coastal States, respectfully urge that your Subcommittee approve Federal funding at the level of $5.2 million, as recommended by the Committee on Merchant Marine and Fisheries, for cooperative State/Federal fisheries research and management programs under the Commercial Fisheries Research and Development Act of 1964 (P.L. 88-309) as a component of the National Marine Fisheries Service FY 84 budget, and thereby reaffirm the Congressional mandate for Federal participation in the conservation and management of shared fishery resources. We are acutely aware of the economic crisis this nation faces, and concur on the need to move aggressively toward a balanced budget. However, we cannot agree with the apparent position taken by the Administration that this budget-balancing process requires scuttling a cooperative State/Federal program which was mandated by the Congress to improve our ability to conserve, develop, and use wisely our commercial fishery resources. Dollars provided to this program by both State and Federal governments should be viewed as investments in future social and economic benefits, and therefore as budget items to be protected as provident uses of public funds.

Continued Federal funding of the P.L. 88-309 program makes good sense from both resource management and cost-effectiveness points of view, for the following principle reasons:

- *State-Federal cooperative projects under this Act carry forward relevant research, monitor the changing status of fisheries, and produce a flow of data essential for continued conservation and management of these valuable natural resources. Particularly for fisheries subject to management under adjacent State and Federal jurisdictions, including most fisheries subject to Regional Council management under terms of MFCMA, State and Federal sharing of program responsibility is essential.*

- *Fisheries resources are biologically renewable, thus funds invested return significant and generally cost-effective social and economic benefits to the nation. Under this Act, Federal dollars generate State and other matching support for fisheries research and development projects of both regional and national significance.*

- *Improved productivity of existing fisheries and development of U.S. capability to harvest, process, and market presently underutilized fishery resources will return major economic benefits to the U.S. fishing industry. As the U.S. fishing industry fully implements its preferential right to resources within the Fishery Conservation Zone, the U.S. can achieve a significant reduction in the negative foreign exchange balance by reducing dependence on imported fish products.*

The Magnuson Fishery Conservation and Management Act of 1976 (MFCMA) instituted U.S. management authority over fishery resources out to 200 miles from the U.S. coastline, and established priority access for the American fishing industry to those resources. This landmark legislation has opened the way for massive expansion of domestic fisheries, and for consequent major potential benefits to the U.S. economy in the form of dollars, jobs, and domestic production of needed protein food.

However, full realization of these benefits requires careful husbandry of the natural resources which produce fishery products, and wise management of their exploitation. Therefore MFCMA also established a new regional fishery management authority with regional management planning vested in newly-created Regional Councils. Implementation of those regional plans rests with Federal agencies for the Fishery Conservation Zone (beyond three miles) and with the States inside the three-mile limit of the Territorial Sea.

In continuing conformance with the original intent of Congress as expressed in the Commercial Fisheries Research and Development Act of 1964 (P.L. 88-309), projects receiving joint Federal-State support under that Act have bolstered State capabilities for development and scientific management of commercial fisheries, have developed much of the technical information upon which regional fisheries management is anchored, and presently are contributing to the on-going fisheries monitoring and research essential for implementation of regional management.

In view of both cost-effectiveness and program necessity, we find the apparent Administration position that these programs are expendable to be both incomprehensible and unacceptable. Surely there are more cost-effective ways to move toward a balanced budget than to cut off a program which inspires Federal-State cooperation for research and development of shared fishery resources. Surely too, this is not the time for the Federal government to repudiate its share of responsibility for implementation of Congressionally legislated mandates for fisheries management and development. The States are facing budget restrictions of their own, and none of them have indicated that they would be able to support the total cost of these essential research projects.

Because these programs are absolutely essential to continuance of State-Federal implementation of regional management--because Federal contributions generate State matching funds plus on-going State commitments to regional management operations--and because the growth of domestic fisheries can contribute significantly to the national economy--we urgently request your leadership to assure continued funding for these cooperative programs under the Commercial Fisheries Research and Development Act of 1964. The Federal government has increasing responsibility for support of coordinated regional conservation and management of marine fisheries resources as an outgrowth of MFCMA. Moreover, Federal dollars invested now in fisheries research and development can pay major future dividends in economic and social benefits to the nation.

The enclosed supplement plus attachments provides more detailed discussion of our three primary arguments for continued Federal participation in these programs. Please call upon any of us or upon our member States if you desire further information or documentation.

PACIFIC MARINE FISHERIES COMMISSION

SUPPLEMENTAL INFORMATION IN SUPPORT OF FULL FEDERAL FUNDING FOR COOPERATIVE STATE-FEDERAL PROGRAMS UNDER THE COMMERCIAL FISHERIES RESEARCH AND DEVELOPMENT ACT[1]

Cooperative research, monitoring, and data collection

The Commercial Fisheries Research and Development Act was enacted by Congress in 1964 as P.L. 88-309 specifically to "provide coordinated aid to the several States in the development of their commercial fisheries by stimulating research and development at the local level...". Congressional sponsors particularly recognized the need for "...an immediate-action program designed to stimulate production and utilization of local fisheries.

Over the years since 1964, Federal appropriations for general research and development projects (Sec. 4a) have remained at relatively modest levels ($4.1 million annually 1967-69; $3.8 million per year 1970-78; $5 million annually 1979-81) apportioned among all the States and participating Territories. Matching State support (25% State to 75% Federal) has been required. Beyond question the program has contributed effectively to the goal originally set by the Congress, and has firmly established a commercial fishery research and development framework at State and local levels.

Subsequent Congressional and Administration reviews of program accomplishments have demonstrated these values. A 1977 House Merchant Marine and Fisheries Committee Report (No. 95-254) includes the following program accomplishments as cited by then NMFS Deputy Director Jack Gehringer:

- o initiation (1966-1977) of 712 projects at an estimated State/Federal cost of nearly $70 million;
- o extensive contributions to State capabilities to obtain scientific information on stocks of shellfish and finfish, advances in aquaculture, improvements in uses of fish byproducts, development of new products, etc.

It should be noted that the above-quoted review occured in the first full year of implementation of the (Magnuson) Fishery Conservation and Management Act, which was to depend heavily upon the data base developed under P.L. 88-309 for the fundamental information required for management plan development. Gehringer's review of P.L. 88-309 accomplishments so indicated:

- o research support for development of cooperative State/Federal management plans (for American lobster, Gulf of Marine shrimp, South Atlantic Shrimp, surf clams, Dungeness crab, Pacific salmon, and others).
- o stock assessment and statistical programs for offshore and Continental Shelf species of potential importance for development of Regional Council Fishery Management Plans.

The House Merchant Marine and Fisheries Committee summarized its general endorsement of the Commercial Fisheries Research and Development Act as follows:

"The Committee concludes that the Commercial Fisheries Research and

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[1] Prepared and submitted jointly by the Atlantic States Marine Fisheries Commission, Gulf States Marine Fisheries Commission, and Pacific Marine Fisheries Commission on behalf of their 24 coastal States.

> Development Act is one of the most popular Federal-aid acts ever created into law by the Congress. The programs carried out under the act on a Federal-State cooperative basis have been extremely effective in promoting the development of the commercial fisheries of the United States."

The Committee urged that in the future the program be better funded by the Congress, and receive strong program development support from the Secretary of Commerce, (emphasis added). To that end, the Congress passed and the President signed into law P.L. 95-53, doubling the authorized level of federal funding for the Act (to $10 million annually for Sec. 4a).

As noted earlier, the Magnuson Fishery Conservation and Management Act of 1976 (MFCMA) placed massive added demands upon fisheries research, monitoring, and data development capabilities, and thereby increased by orders of magnitude the importance of Commercial Fisheries Research and Development Act programs as major contributors to national goals and objectives. These new dimensions to fisheries research and management can best be appreciated by considering the new management requirements established by MFCMA.

P.L. 94-265, the (Magnuson) Fishery Conservation and Management Act of 1976, established U.S. conservation and management jurisdiction over marine fishery resources out to 200 miles. To administer this jurisdiction, the MFCMA established Regional Fishery Management Councils, and charged them with preparation and implementation of "fishery management plans which will achieve and maintain, on a continuing basis, the optimum yield from each fishery." The MFCMA further specified several national policies for management of U.S. marine and anadromous fisheries resources including: prevention of overfishing, use of best scientific information available, nondiscrimination among citizens, and general efficiency of operation. Also introduced into the fishery management process are the requirements that, to the extent practicable, we promote economic efficiency, we manage stocks of fish as units throughout their range, and that we manage for optimum yield. Optimum yield is defined as the amount of fish which will provide the greatest overall benefit to the nation, with particular reference to food production and recreational opportunities, taking into account relevant economic, social, and ecological factors.

Thus the MFCMA has massively increased the geographic scope of fisheries management responsibility; it also has introduced new dimensions to the data base which must be developed to carry out that responsibility. To meet what is indeed a quantum jump in research needs, existing programs have had to be strengthened and new programs created. These must encompass new fisheries now available for U.S. preferential use, and they must incorporate multidisciplinary approaches to management of all fisheries in accordance with the new management policies (National Standards).

While some of these tasks can be met by in-house programs of Federal agencies or the Regional Councils, many depend upon cooperative interactions between Federal and State fishery mangement agencies. State-Federal cooperation is necessary to attain comprehensive management throughout the range of the resource. State agencies for many decades have been regulating fisheries off their shores, collecting statistics and performing management-related research, along with other task necessary for management. It is vital that these experienced management personnel and associated resources be teamed with the special capabilities to be found in Federal agencies to meet the new needs and opportunities generated by the MFCMA.

The Commercial Fisheries Research and Development Act (P.L. 88-309) has proved to be an ideal vehicle for channelling State resources into fisheries monitoring, research, and data collection essential to implementation of Council management plans. Former NOAA Assistant Administrator for Fisheries, Terry Leitzell, stressed NMFS support for this development in his 1980 Congressional testimony[2]. He noted the States' earlier use of P.L. 88-309 funding to assist development of cooperative State/Federal fishery management plans which served as basis for Regional Council plan development. He emphasized the continuing role of these State programs, and NMFS intentions to expand that role, as follows:

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[2] Statement by Terry Leitzell before the Subcommittee on Fisheries and Wildlife Conservation and the Environment of the House Merchant Marine and Fisheries Committee, February 11, 1980.

> "Stock assessment and statistical programs conducted on off-shore and continental shelf fish stocks also have contributed to establishing a data base for the development of fishery management plans by the Regional Councils. ...The National Marine Fisheries Service has been actively exploring with the States ways in which the States can use P.L. 88-309 funds to more effectively support the cooperative State/Federal management programs and to orient their research towards studies which will complement management and research related to species managed under the MFCMA."

The Regional Fishery Management Councils depend heavily upon the States for long-term implementation of fishery management plans--particularly for continued assessments of fishing impacts on stocks, and for assistance with biological and socioeconomic research essential for periodic improvement of those management plans. The States' abilities to carry out these supportive functions depend heavily upon cooperative Federal-State funding under P.L. 88-309. Since MFCMA and Regional Council management plans are Federally mandated actions, the States quite properly expect Federal participation in the fishery monitoring, research, and data collection necessary to support those actions. Because fish and fishermen range freely through State and federal waters (inside and outside the 3-mile limits of the Territorial Sea), Federal-State cooperative funding is both appropriate and necessary.

We consider this by far the most compelling reason for continued funding of the Commercial Fisheries Research and Development Act (P.L. 88-309). If that cooperative funding is lost, State-Federal programs and projects absolutely essential to the operational success of Regional Council management plans will be jeopardized, and either will be lost, or the entire burden for their support may have to be assumed by the Federal government. It is totally unrealistic to expect the States, in the absence of Federal cooperative support, to pick up the total burden for programs which have been engendered by Federal legislation.

Pacific area examples well illustrate the regional management support role of programs and projects carried forward under the Commercial Fisheries Research and Development Act (cf. Attachment A for a selected listing of relevant projects by Region and State). For FY 1982, all Pacific area States gave highest priority to allocation of available State and Federal funding under P.L. 88-309 to projects supportive of Regional Council management of groundfish, shellfish, and salmon in accordance with provisions of the Magnuson Fisheries Conservation and Management Act of 1976.

Of the nine management objectives in the groundfish Plan adopted by the Pacific Fishery Management Council, three have operational significance for joint Federal-State programs of fishery monitoring, data collection and analysis, and research:

- o Attain an information flow on the status of the fishery and the fishery resource which allows for informed management decisions as the fishery occurs.
- o Recognizing the multispecies nature of the fishery, establish a concept of managing by species and by gear, or by groups of interrelated species.
- o Prevent overfishing of stocks which can be managed as a unit, including rebuilding those stocks which are now depleted.

The Plan specifies optimum yields for groundfish species and species complexes, and outlines mechanisms for promptly adjusting allowable catch levels downward if conservation is required, or upward if new information indicates increased harvests are appropriate. These mechanisms require that the Council's Plan Implementation Team monitor catch data and biological information on each species/species complex throughout the year in order to detect any signs of stress which suggest need for changes in the management regime. Factors to be assessed include reductions in biomass below expected levels, indications that harvest rates are exceeding replacement of young fish, or that the catch for the calendar year will exceed current estimates of allowable harvest. Negative signals from these continuing assessments trigger a "point of concern" mechanism whereby the Council is notified of the need to consider remedial action. Where assessments show unexpected strength, mechanisms can be activated to increase allowable harvest levels.

The mechanisms outlined for timely in-season adjustment of harvest guidelines to accommodate real-world changes in the fishery directly support the third objective cited earlier (prevent overfishing...) and can only be carried out if the other two objectivess are achieved--for management by species and gear type, and on the basis of a timely flow of information on the status of the fishery and the fishery resource.

To make this system work, resources of the entire Pacific Coast must move forward together. The National Marine Fisheries Service has direct responsibility for collection and reporting of foreign catch statistics, for stock assessments and other studies of certain species, and for most researches in offshore waters. The major burden for domestic fisheries data input and for other related research rests upon the States of California, Oregon, and Washington. Federal, State, and Regional agencies must coordinate activities of a regional Fishery Information Network (FIN) capable of receiving and combining relevant fisheries data from all sources and producing information summaries geared to management decision-making.

For California, Oregon, and Washington, continuance of effective participation in this multi-agency cooperative program will depend ultimately upon the continuity of shared State-Federal support under the Commercial Fisheries Research and Development Act (P.L. 88-309). The existing Groundfish Management Plan owes most of its content to information collected by State fisheries agencies over the past decade under P.L. 88-309 grants. For all three States, the princple projects proposed for FY 1982 funding are in direct support of Council Plan objectives and information needs. The three States requested Federal participation in those key projects at a combined level of approximately $500,000 for FY 1982, and at comparable levels for 1983 and 1984. State contributions will bring the total annual costs of these supportive programs to approximately $670,000[3], which is less than half of one percent of the estimated annual value of this fishery.

If Federal support is withdrawn from these programs which so directly support management objectives established under MFCMA, the projects and the trained staff associated with them probably will be lost, and the entire groundfish management mechanism of the Pacific Council will be placed in serious jeopardy. The States cannot be expected to assume the full financial responsibility for projects which are so directly a product of Federal legislative mandates and so clearly in the service of regional and national goals.

Clearly the ultimate losers from such an abrogation of Federal responsibility will be the fishery resource itself which urgently needs coordinated regional management for stock protection and rebuilding purposes, and the recreational and commercial users of the resource, who will benefit significantly from the in-season management flexibility that has been built into the groundfish plan.

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[3] cf. Attachment A, P. 1-2: California's fisheries monitoring, assessment, and evaluation; Oregon's real time data reporting and groundfish stock and fishery assessment; Washington's Pacific cod, lingcod, rockfish stock assessment, groundfish monitoring and data management; Pacific States groundfish aging unit.

The long-range major losses will be to the United States economy as a whole, since it is only through improved management and control of the resource that we can hope to shift benefits now going to foreign fishermen to U.S. harvesters and processors. The economic stakes are high. Current annual ex-vessel value of the domestic Pacific Coast groundfish harvest is estimated at $70 million. Value added through processing increases that figure by approximately 2 1/2 times to some $175 million. Foreign fleets currently harvest heavy tonnages of species not presently utilized by domestic fisheries. Therefore a considerably higher total economic benefit requires only wise management of the resource and aggressive fisheries development to transfer this rich harvest to American fishermen and American processors.

The Pacific States place parallel emphasis on fishery monitoring, data collection, and relevant research for regional management of shellfish, either in support of Regional Council management plans, or to improve the quality of multi-State management of fisheries not now under Council management authority. As is true for groundfish, loss of Federal funding for these programs, which so directly support the intent and mandate of MFCMA, will force project curtailments and loss of key personnel, and thereby will vitiate the regional planning and implementation thrust of MFCMA.

Attachment A identifies key shellfish projects of the Pacific States. Essential support for regional management of shrimp is offered via four projects in the States of Alaska, Washington, and Oregon. Projects in California and Washington impinge significantly on Dungeness crab productivity and management. Alaska will devote a major share of combined State-Federal resources to studies vital to management of its enormously valuable king and tanner crab resources. The combined Federal cost of all these Pacific area shellfish projects is approximately $440,000. With State contributions added, total costs approximate $675,000, which is only a fraction of a percent of the annual value of landings from these major fisheries.

Atlantic and Gulf States also will allocate significant resources under P.L. 88-309 for projects supportive of multi-State and Federal regional concerns (cf. Attachment A, p. 3-6). On the Atlantic Coast, Commercial Fisheries Research and Development Act grants provide support to interstate management programs, Regional Fishery Management Council programs, and the National Marine Fisheries Service statistics and stock assessment programs. While P.L. 88-309 grant programs have been initiated to meet major local and State needs, they benefit all institutions involved in reginal management of commercially important coastal species. A survey of uses of FY 1981 grants by the South Atlantic States shows that one hundred percent of the projects funded under P.L. 88-309 benefit regional and Federal management interests as well as the States conducting the projects.

In North and South Carolina, for example, the National Marine Fisheries Service depends entirely on projects conducted with P.L. 88-309 grants for landing statistics and other information on all species in the commercial fisheries of that area. In New England, Massachusetts, and Rhode Island, P.L. 88-309 programs support fishery resource assesment projects in the Territorial Sea and internal State waters that are coordinated with National Marine Fisheries Service surveys so that the Federal and the State data can be used together for composite assessments of New England species throughout their range. This type of information is invaluable to the Regional Fishery Management Councils, and essential to the successful management of all coastal migratory species.

The New England Fishery Management Council is presently in the process of rewriting a most important management plan for Atlantic groundfish. This plan includes codfish, haddock, and the yellowtail flounder, three species which have long been the backbone of New England commercial fisheries. The Council's new strategy for managing groundfish is based principally on mesh-size restrictions on groundfish stocks. This type of contribution from projects funded under the Commercial Fisheries Research and Development Act can be seen in almost every fishery subject to Regional Councils management plans. On the Atlantic Coast these include Atlantic herring, Northern shrimp, South Atlantic shrimp, American lobster, Atlantic mackerel, several species of flounders, the grouper/snapper complex, and sea scallops. The P.L. 88-309 grant program also supports regional interstate management efforts such as the Northern shrimp fishery as managed by the States of Maine, New Hampshire, and Massachusetts through the Atlantic States Marine Fisheries Compact. Stock assessments and environmental physiology data on Northern shrimp are provided by projects funded through P.L. 88-309.

To sum up, the Commercial Fisheries Research and Development Act has supported research and has proven to be essential to the success of National Marine Fisheries Service programs, Fishery Management Council plans, and interstate management efforts. The continued success of these programs or any new programs to manage migratory fish in the territorial seas will depend on the continuing availability of data basic to management decisions. If the Commercial Fisheries Research and Development Act grants are entirely eliminated, most of these vital research and data collection programs, of necessity, must be terminated by the States.

At a workshop on Territorial Seas fishery management, William Gordon, former Director of the Office of Resource Conservation and Management, National Marine Fisheries Service identified these components to the present Federal role in fisheries management:

1. direct management of fisheries in the fishery management conservation zone.

2. supporting management of interstate fisheries by the coastal States; and

3. participating role in management of international fisheries.

We agree with this interpretation of the Federal role. However, this interpretation is not reflected in the current NMFS/NOAA budget. Of the multi-million dollar decreases proposed by the Administration for NOAA's ocean and living marine resources operation, $4 million would be eliminated by terminating the P.L. 88-309 program, $3 million by terminating anadromous fish grants under P.L. 89-304, and $2 million by eliminating aquaculture programs that deal with commercially important shellfish and crustaceans.

All these proposed budget reductions come at the expense of programs which support the management of interstate fisheries--the second of Gordon's three program areas. The importance of interstate fisheries seems to have been neglected even though as much as two-thirds of the fish landed in the United States by recreational and commercial fisheries come from the territorial seas.

Recent NMFS/NOAA testimony before Congressional authorizing Committees has asserted that the P.L. 88-309 grant program benefits primarily local and State interests, and therefore should be supported by State government without the need for Federal participation. We insist that States always have significantly supported P.L. 88-309 through their matching grants. It is obvious that NOAA's budget proposals have not adequately assessed the full spectrum of values of the Commercial Fisheries Research and Development Act program as it benefits the Nation through contributions to regional conservation and management of shared resources.

Gulf States and Caribbean attention, as on the other coasts, is directed heavily toward monitoring fisheries and producing the flow of data necessary for regional management under MFCMA (e.g., data management projects in Texas, Louisiana, and Mississippi; also in Puerto Rico). Program emphasis in Alabama, Florida, Mississippi, and in Puerto Rico and the Virgin Islands has been general research on finfish and shellfish necessary for Council planning purposes. Shrimp stock assessments essential to management of this most important resource also have high priority (Texas, Mississippi, Louisiana, and Alabama).

Had the accumulation of these data been used only by and for the States in the management of the fisheries in their Territorial Sea and inland waters, the funds still would have produced significant national benefits, since food produced in Texas, Florida, or Puerto Rico, does not remain in that locale, but is distributed to the remainder of the nation. However, that was not the sole extent of benefits. Preparation of fishery management plans by the Gulf and Caribbean Councils required application of extensive data in the preparation of management plans. The Gulf States and Puerto Rico were able to supply data and to assist in applying that information to localized fishing conditions. Some of these people, or persons they have trained, sit on the Councils today and continue to supply this knowledge and expertise to the application and implementation of these plans. This would not today be possible had there been no P.L. 88-309 and P.L. 89-304 funding.

In the total world of fish management, there must be a State-Federal partnership if a homogenous management system is to exist and the resources of concern are to be managed efficiently. Most of the fish and shrimp of the Gulf of Mexico are nurtured for a considerable period of their lives in marshy bays, lagoons, and the Territorial Sea of the several States. Therefore, the data collection should be so conducted by the States that it complements the needs of the Councils in their mandate to manage the fishery resources of the Fishery Conservation Zone. The P.L. 88-309 programs have been of value in providing benefits to Federal Council needs and these will not be forthcoming if the funding is abolished.

The following table summarizes the percentage of P.L. 88-309 funds obligated in FY 1981 by the Gulf and Caribbean Councils in four project categories. About 88% of these projects provide data for State-Federal management and conservation of living marine resources. Figures for FY 1983 are similar. If P.L. 88-309 funds are not allocated in FY 1984, these projects must be terminated, resulting in the loss of information from commercial and recreational fishery landings, catch-effort data, cooperative monitoring of shrimp and fisheries populations, measurement of spiny lobster population dynamics, and determining mackerel migration patterns. Most of these projects currently provide the data base that is being used by both the States and the Fishery Management Councils.

Percentage of Gulf and Caribbean area FY 1981 P.L. 88-309 funds expended on projects by the five coastal States, Puerto Rico and the Virgin Islands, that are applicable to State-only and State-Federal responsibilities for marine fisheries management.

	State-Federal Management				State-only Management
Areas	Fishery Landings	Monitoring Fishery Resources	Testing Management Techniques	Total S-F	Total State-only Management
Caribbean	42.5%	42.4%	12.6%	97.5%	2.5%
Gulf States	14.7%	64.4%	3.8%	82.9%	17.1%

Cost-effectiveness of Federal fisheries investments under P.L. 88-309

If properly conserved and managed for optimum yields, America's fisheries comprise a significant and annually self-renewing generator of national wealth. For that reason, Federal funds allocated now for research and development to enhance the productivity of those fisheries should be considered investments that will pay long-term economic and social dividends to both citizens and the national economy.

Most important commercial fish species and the fishermen who harvest them range freely through the waters of both State and Federal jurisdiction. Effective management of shared fisheries is possible only when cooperation among concerned jurisdictions permits management of stocks as units throughout their range. Both State and Federal management agencies must develop the attitudes and acquire the trained manpower and other resources to carry out the monitoring, data flow, and relevant research necessary for effective regional fisheries management.

For this purpose of fostering State capabilities for commercial fisheries conservation and management, past Federal investments under the Commercial Fisheries Research and Development Act probably have paid the greatest dividends. Without that effective Federal-State interaction over the past 16 years, many States could not have developed the readiness to participate productively now in shared management responsibilities under the new Federal mandates of MFCMA.

Former NMFS Director Terry Leitzell summarized this impact in February 1980 testimony:

> "The original intent of the Act was to build institutional capabilities in the States by combining the financial resources and expertise of the Federal Government with the States in a cooperative effort for the development and effective management of the Nation's commercial fisheries resources. All 50 States and the other 5 recipients of the funds have participated in carrying out the project activities. Approximately 300 people in the States, including scientists and staff support, are continuously supported by P.L. 88-309 funds in their efforts to gather information to help solve fisheries problems and to provide a data base for better fisheries management.
>
> "Since fiscal year 1966 when funds were first made available, substantial results have been achieved. A total of 837 projects has been initiated at an estimated total cost, both State and Federal, of nearly $83 million...The projects cover many activities, including aquaculture, construction, coordination and planning, development, research, and disaster aid. Research continues to be the backbone of the program with 53 percent of the FY 1979 Federal dollars being spent for this purpose, 17 percent for the collection of fishery statistics, 4 percent for aquaculture, 8 percent for technical assistance and marketing, 6 percent for coordination and planning, and 12 percent for construction, operation and maintenance of laboratory facilities.
>
> "The Act has served well to assist the States to better and more effectively develop and manage their valuable fisheries resources. Under subsection 4(a), scientific information has been obtained on local stocks of shellfish and finfish. Advances have been made in aquaculture for the rearing of catfish, trout, shrimp, oysters, clams, and other shellfish. This research has been coordinated with that ongoing in Federal and University laboratories. Improvements have been made in the use of fish byproducts and in development of new products; new fishing gear and methods have been develped and introduced to the industry...Projects funded with these State/Federal funds have produced results which have received the approval and strong support of the Nation's scientific community as well as the fishing industry."

This enhancement of State research and management capability has been truly a Federal-State cooperative effort in dollars as well as in other resource commitments. Under terms of P.L. 88-309, the Federal share of project costs can be up to 75%; therefore the (approximately) $74 million Federal dollars invested under the Act from 1966 to 1981 have generated some $24 million matching State funds, and at the same time have catalyzed allocation of major State support services and capabilities to meet the purposes of the Act.

Clearly P.L. 88-309 projects constitute only a part of our total national commitment to protection and productive use of commerical fishery resources; State and Federal agencies and the private sector direct other resources and programs toward those same objectives. Given the Constitutionally established separation of State and Federal jurisdictions at the 3-mile limit of the Territorial Sea, however, this Act provides the key mechanism for effective cooperative interaction for management of fishery resources which by nature are distributed across those historic political boundaries.

The annually renewable economic worth of our major commercial fisheries fully justifies the levels of Federal and State expenditures authorized under P.L. 88-309. For example, a combined Federal-State investment of some $670,000 was porposed for FY 1982 under P.L. 88-309, to support monitoring, data collection and analyses, and relevant researches on Pacific groundfish. The annual yield from that fishery is estimated at approximately $175 million--more than 200 times the level of the research and management funds requested. Similarly, the $83,000 project proposed for State of Alaska king and tanner crab population assessments has a trivial cost compared to a recent (1980) valuation of king crab landings at $167 million and tanner crab landings at $51 million.

In 1976, then-Commerce Secretary Elliot Richardson stressed the national economic and strategic worth of commercial fisheries in his introduction to "A Marine Fisheries Program for the Nation:

> "...Our fisheries are one of the Nation's--indeed the world's--greatest resources, and will become increasingly important as a source of food for man in the decades ahead. We cannot permit the depletion of our fish stocks and the destruction of fish habitats to continue. We must learn to manage this resource so that we may use it to the optimum now and so that future generations may be able to use it and draw even greater yields from it.
>
> "...At the present time, the landed value of the fish caught each year by the American commercial fishing industry is approximately $1 billion. The total impact on the national economy is much greater--in dollars, approximately $6.5 billion, more than six times the value of the landed catch. In numbers of jobs, commercial fishing now provides employment for almost half a million persons, either directly or indirectly...".

Development of U.S. fisheries to benefit the U.S. economy

As Commerce Secretary Richardson has indicated, it clearly is in the interest of the U.S. economy that domestic fisheries increase their ability to harvest and process the fisheries resources off U.S. shores. Clearly too, the Commercial Fisheries Research and Development Act was designed to support fisheries development processes both indirectly, through improvements in resource assessments, fishery monitoring, etc., and directly through economic development and marketing projects such as those cited in Attachment B for the States of Maine and Florida (p. B-3). Because economic rejuvenation is an essential national goal for the 1980's, our commercial fisheries potential for contributing significantly to the U.S. economy merits special attention.

In the decade prior to 1976 and enactment of MFCMA, America's commercial fishery harvests slipped to 5th or 6th among fishing nations of the world, principally because of the phenomenal growth of foreign harvests off our shores. To illustrate this takeover by foreign fleets, the ten-year recorded groundfish catch off the Pacific coat (1963-1973) indicates that the U.S. catch remained essentially constant and at low levels while giant foreign trawlers quadrupled their harvest (cf. upper figure, Attachment C). Moreover, this massive foreign fishery had a devastating impact on non-target fishery resources through catastrophic stock depletion of such valuable species as Pacific ocean perch, which while not the targets of the fishery, were taken in large numbers as an incidental bicatch. As outgrowth of MFCMA, the world position of U.S. fisheries has risen to fourth among fishing nations.

On a national scale, over the thirty years 1945-1975, the domestic harvest of edible fish declined steadily while the total domestic consumption doubled (from approximately 3.5 billion pounds in 1945 to more than 7 billion in 1975). That difference between domestic production and domestic demand has been met through imports of foreign products, with a resultant overseas dollar drain ultimately exceeding $2 billion per year.

The Department of Commerce assessed possibilities for reversing this negative balance of payments and bolstering the U.S. economy through fisheries production in a 1976 publication: A Marine Fisheries Program for the Nation. DOC estimated that stocks of fish off the U.S. coast are capable of yielding 20 to 40 billion pounds annually on a sustained basis. However, the

U.S. commercial fisheries landings averaged only 4.7 billion pounds annually for the five years 1969-1973.

In light of FAO projections of continuously expanding world demand for fisheries products, the Department of Commerce suggested a tentative national goal of expanding U.S. harvests to keep pace with projected increases in domestic demand. If that production capability could be achieved, by 1985 landings could approximate 7 billion pounds. Such a production level could generate an estimated 50% increase in total value added to the national economy by U.S. commercial fisheries, and could achieve significant reduction in the negative foreign exchange balance by reducing domestic dependence on imported fish products. Toward realizing that economic opportunity, the Department recommended that one of its four national program goals be to "strengthen the U.S. commercial (fishing) industry to enable it to provide increased supplies (of fishery products) at competitive prices." Measures proposed to serve that goal included, in the context of P.L. 88-309, expanded development of fishery technology, including harvesting, handling, and processing, to increase quality and productivity and decrease cost and waste; also recognition for an increased role for the States in the research and management of coastal fisheries.

The President expanded these goals in 1979 through a policy and program[4] addressing the need to more fully realize the potential of the U.S. fishing industry to contribute significantly to the U.S. economy. That statement recognized present fishing industry contributions to the national economy--at least $7 billion in gross national product, along with direct employment of more than 260,000 individuals. Administration spokesmen emphasized the opportunity to expand that contribution, noting that under MFCMA the U.S. controls about 20% of the world's fishery resources, yet harvests only about 4% of the world's catch. Tripling that level of harvest appeared to be a reasonable goal, particularly in view of FAO estimates of a one-third increase in world demand for fish products over the next decade. Since U.S. consumers expended some $11 billion for edible seafoods in 1978, nearly half for imported products, overall U.S. economy would benefit significantly from U.S. fishing industry capability to supply this growing domestic demand.

Concurrent with these national statements of goals and policy, the Magnuson Fishery Conservation and Management Act conferred upon U.S. fishermen priority access rights to fishery resources of the 200 -mile-wide Fishery Conservation Zone off U.S. shores. U.S. fishermen took prompt advantage of this new access. The success of their displacement of foreign fleets and channelling of increased economic benefits into the U.S. economy can be demonstrated by some West Coast examples.

The hake (whiting) fishery off the Pacific coast has been the principle target for major foreign fishing fleets, for several decades with foreign harvests ranging from 120,000 to 200,000 metric tons per year. Due to domestic processing and marketing problems, no significant domestic fishery existed until after the advent of MFCMA. Over the years since 1977, however, joint ventures between U.S. fishermen and foreign floating processors have stimulated development of impressive midwater trawling capabilities by U.S. vessels, resulting in a ten-fold increase in the domestic harvest of hake--from 6,800 metric tons in 1977 to an expected 60,000 metric tons for 1981. As U.S. harvesting capability has increased, allocations to foreign fishing fleets have been reduced accordingly. The trend is accelerating for transfer of major fishery resource utilization benefits from foreign channels into the domestic economy.

Alaskan fisheries also effectively demonstrate displacement of foreign fleets by domestic fishing operations. The Alaska tanner crab fishery was harvested almost exclusively by Japanese fleets until the 1970's (U.S. fishermen took less than 2% of the harvest in 1968-69).

Prior to MFCMA, U.S. harvests increased gradually to 13% of the total in 1975. With the designation of priority harvest access to American fishermen under MFCMA, the U.S. percentage of total harvest shot from 24% in 1976 to a projected 82% in 1981, and will become 100% in 1982 when American ability to harvest and process the total catch will close out all foreign fishing for this species. The 1975 domestic tanner crab harvest had an estimated value in excess of $19 million. The 1980 domestic tanner crab catch is valued at more than $51 million--truly a significant added contribution to the domestic economy.

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[4] Toward a Partnership for Development of the U.S. Commercial Fishing Industry, May 23, 1979

Similarly, in the decades since World War II, foreign fleets of many nations have taken enormous annual harvests of groundfish from the Bering Sea and Gulf of Alaska. While no significant domestic groundfish fishery existed off Alaska prior to MFCMA, under the protection of that Act the U.S. industry has expanded rapidly and efficiently. Domestic harvests in the Bering Sea were only 22 tons in 1976, contrasted to 1,591,300 metric tons reported by foreign fleets. By 1979, domestic harvest rose to 614 tons, and by 1980 to 40,689. Under the drive of joint venture opportunities in 1981, the domestic harvest has been projected to exceed 150,000 metric tons. Gulf of Alaskan harvests show a similar growth pattern, from 2,229 metric tons in 1977 to an estimate of 129,000 metric tons for 1981. These clearly are order-of-magnitude increases in domestic harvest capabilities and attendant contributions to the U.S. economy.

Fishery resources available within the 200 mile limit of the U.S. Fishery Conservation Zone (as established by MFCMA) constitute a biologically renewable source of revenue worth billions of dollars annually to the U.S. economy. U.S. priority access to that resource (per provisions of MFCMA) is only the first step toward realizing these potential values. The magnitude of economic benefits will depend upon the value added through harvesting, processing, and marketing. These alternative levels of value are well illustrated by the following estimates developed in 1979 for the Gulf of Alaska pollock fishery.

The Gulf of Alaska pollock resource will support an allowable annual harvest of about 150,000 metric tons. Under terms of MFCMA, if the U.S. fishing industry makes no use of that resource, harvest priveleges must be allocated to foreign fleets. If the entire harvest were allocated to foreign fishermen, the U.S. Treasury would receive approximately half a million dollars in foreign use fees (3 1/2% of the exvessel price of $110 per ton, according to 1978 foreign fee schedules).

As a far more attractive option, however, if U.S. vessels can harvest pollock with midwater trawls and sell their catch quickly to processing plants ashore or afloat, the return to U.S. fishermen could total some $16.5 million at the 1978 price of $110 per ton. Since adequate shore-processing facilities with the necessary volume capacity were not yet established in Alaska, an alternative solution was developed--the "joint venture" business arrangement between U.S. harvesters and foreign processors. Under this arrangement, U.S. catcher-vessels transfer their fish-laden trawl cod-ends to foreign processor vessels under contract to receive these U.S. caught fish.

This joint-venture benefit to the U.S. economy produces more than 30 times the value that could be generated from foreign harvest fees alone. However, if processing and marketing pollock also could be transferred to the U.S. industry, another $40 million could be added, for a total increased U.S. economic yield from the Gulf of Alaska pollock fishery of $50-60 million per year.

This value-added quantum jump would carry with it other pervasive socioeconomic benefits--additional fish-processing jobs, spinoff income for support services, and value returned on investment capital. In terms of the national economy, this increased flow of dollars through the domestic economy constitutes a direct reduction in U.S. foreign exchange deficits, since pollock products presently are a major import for domestic consumer use. Moreover, this transfer to domestic harvesting and processing would retain U.S. control from ocean to consumer of a major source of protein--certainly a strategic resource for the future.

In view of these potential benefits to the U.S. economy, and therefore the cost-effectiveness of Federal investments in American fisheries, we urge that the Congress continue to fund the Federal portion of cooperative Federal-State commercial fisheries research and development projects under P.L. 88-309. These projects contribute to the information base essential for conservation and productive management of U.S. fishery resources. We pledge the best efforts of our member States to continue to improve that information base toward the object of continued augmentation of economic benefits to the U.S. fishing industry and the U.S. economy.

We consider it imperative also that the private sector receive augmented support in its efforts to increase U.S. utilization of fishery resources now going be default to foreign fleets. The Saltonstall-Kennedy Fund was established in 1954 to "promote the free flow of domestically produced fishery products" by means of fishery development projects financed from a portion of the duties collected on imported fish products. We join with the National Fisheries Institute and the International Association of Fish and Wildlife Agencies in urging that the Congress reaffirm that intent, as updated by the American Fisheries Promotion Act of 1980 (P.L. 96-561), and insist that Saltonstall-Kennedy funds be used as directed, to assist the American fishing industry to develop harvesting, processing, and marketing capacity for fully utilizing presently underutilized fishery resources. A 1980 Pacific Marine Fisheries Commission Resolution, carrying unanimous approval of the five Pacific States, strongly endorses this position. That Resolution also recognizes and also endorses the key role of the regional fisheries development foundations in inspiring industry action and serving as an effective interface between government and private sector fisheries management and development interests.

Finally, last year the 1,000-member Northeastern Division of the American Fisheries Society, the largest professional Society of fisheries scientists and managers from State, Federal and private sectors, unanimously adopted a resolution supporting appropriations for P.L. 88-309 and 89-304 in fiscal year 1983 (Appendix B). This Division of AFS comprises 11 States, the District of Columbia, and five Canadian Provinces. At the same time, the Northeastern Association of Fish and Wildlife Agencies passed a similar resolution supporting the same need to continue these two laws with approprite funding. We are pleased to recognize the support of these distinguished institutions in concert with our recommendations for continued funding of these essential State/Federal cooperative fisheries programs.

Attachment A

REPRESENTATIVE COMMERCIAL FISHERIES MONITORING, DATA COLLECTION, RESEARCH, AND DEVELOPMENT PROJECTS OF REGIONAL IMPORTANCE
WHICH ARE DEPENDENT UPON COOPERATIVE FEDERAL-STATE FUNDING FOR FY 1982
UNDER THE COMMERCIAL FISHERIES RESEARCH AND DEVELOPMENT ACT (P.L. 88-309)

PACIFIC AREA STATES	PROJECT TITLE & BRIEF DESCRIPTION	FUNDS REQUIRED *	
		FEDERAL	TOTAL
Alaska	Pandalid shrimp studies--obtain information on postlarval life histories, distribution, and abundance of major exploited shrimp stocks of the Kodiak area and determine effects of fishing on those stocks.	50.0	113.3
	King and tanner crab studies in Cook Inlet--develop a method for assessing annual variation of Cook Inlet king and tanner crab population abundance and relate this abundance to allowable commerical harvest.	50.0	82.6
	Investigation of life history and fishery for tanner crab in Alaska--obtain information on distribution, abundance, migration, growth, mortality, and size and age composition of tanner crab stocks in the Kodiak area as basis for management decisions.	52.1	130.9
	Assessment of stream habitat and upland development--study salmon stocks and physical characteristics in land use activities with emphasis on logging impacts on salmon.	75.7	101.0
American Samoa	Statistical analysis of American Samoa fisheries--collection and analysis of catch data from Samoa-based longline fleet.		100.0
California	Fisheries monitoring, assessment, and evaluation--monitoring commercial fisheries of southern California (groundfish, anchovie, jack mackerel, billfish, etc.) by sampling landings, logbooks, sea surveys, etc. as basis for management decisions.	163.0	220.0
	Shellfish culture investigations--development of mass culture techniques for dungeness crab, red abalone, pismo clam.	103.0	140.0
Idaho	Test-rearing of anadromous fish--evaluate contribution to ocean and river fisheries, survival, and returns of pond-reared chinook salmon on the upper reaches of the Salmon River drainage.	50.0	67.0
Oregon	Real-time groundfish and shrimp fishery data reporting--improve State's capability to obtain catch, effort, and biological data and perform analyses to meet Pacific Council regional management requirements.	55.8	74.4
	Groundfish stock and fishery assessment for regional management--compile pertinent biological and statistical information and collate into status of stock assessments in satisfaction of Pacific Council regional management needs.	86.5	115.3

* funding needs in thousands of dollars

PACIFIC AREA STATES	PROJECT TITLE & BRIEF DESCRIPTION	FUNDS REQUIRED * FEDERAL	FUNDS REQUIRED * TOTAL
Oregon continued)	Shrimp stock and fishery assessment for regional management--analysis of relevant biological statistical information to estimate stock size, equilibrium yield, fishing power, catch-per-unit-of-effort, and fishing mortality to produce improved information base for management decisions.	55.8	74.4
Washington	Pacific cod, lingcod, rockfish stock assessment--collect data on growth, mortality, migration, and recruitment patterns as basis for improved management of the fishery.	34.0	45.2
	Groundfish monitoring--collection of catch and biological data from coastal groundfish fisheries for satisfaction of Pacific Council management requirements.	52.4	69.8
	Groundfish data management--rapid processing, analysis, and reporting of groundfish landings information to satisfy Pacific Council needs.	20.6	27.4
	South coast marine fish/shellfish monitoring--collect landings and biological data on groundfish, shrimp, crabs, and other shellfish for improved resource management.	20.0	26.0
	Coastal dungeness crab--collect biological data necessary for management decisions and for management plan development.	33.0	44.0
	Coastal pink shrimp survey--collect samples for analysis of growth and year class; collect data on fishing effort; conduct research basic to Regional Council management plan development.	25.0	33.0
	Marine coastal fisheries analysis--coordinated researches on all marine fisheries in support of Pacific and North Pacific Fishery Management Council plan development.	19.0	25.3
Pacific States	Groundfish aging unit--aging flatfish, rockfish, other groundfish in support of coastwide stock assessment studies--multi-State project.	50.0	66.0

* funding needs in thousands of dollars

ATLANTIC COAST STATES	PROJECT TITLE & BRIEF DESCRIPTION	FUNDS REQUIRED *	
		FEDERAL	TOTAL
Connecticut	Monitor commercial fisheries of Connecticut--monitor catch, effort, and economic data on Connecticut commercial fishery for use in state and regional management proposals (CT/3278-R).	22.5	30.0
Maine	Cooperative development of underutilized New England fisheries--implement cooperative market and economic development program for underutilized New England seafood products (ME/3-304-D).	40.0	80.0
Maine, et al	Environmental physiology studies of northern shrimp--implement environmental physiology studies of northern shrimp for cooperative management planning by Maine, New Hampshire, and Massachusetts (ME/3-341-R).	3.6	7.1
Maryland	Diseases of marine organisms--determine distribution and intensity of disease affecting several species of marine animals in the Chesapeake Bay (MD/3-10-R).	47.9	63.9
Massachusetts	Coastal fishery resource assessment program--implement a coordinated coastal fishery resource assessment program with NMFS for regional management plan development (MA/3-287-R).[1]	117.0	156.0
New Jersey	MSX oyster disease in Delaware Bay--provide information on fluctuation, prevalence, and intensity of MSX oyster disease in Delaware Bay (NJ/3-319-R).	24.0	32.0
New York	Movement, mortality, and growth of American lobster--monitor movement, mortality, and growth of American lobster for use in regional fishery management plan development (NY/3-341-R).	18.8	37.5
North Carolina	Trawl mesh size selectivity studies--determine mesh size selectivity data from North Carolina winter trawel fishery for use in State/Federal fluke management plan (NC/2/345-R)[2]	35.2	46.9
	Estuarine stock assessment--implement estuarine stock assessment on sciaenids and flounders for development of regional management strategies (NC/2-372-R).	90.0	120.0

*funding in thousands of dollars

[1] Rhode Island has an identical resource assessment program that is also coordinated with NMFS resource assessment efforts in the Fishery Conservative Zone.

[2] Maine has also produced mesh size selectivity data under a similar 88-309 porgram which is currently being used by the New England Fishery Management Council to revise management strategies in the Groundfish Fishery Management Plan.

ATLANTIC COAST STATES	PROJECT TITLE & BRIEF DESCRIPTION	FUNDS REQUIRED FEDERAL	TOTAL
South Carolina	Commercial fisheries data collection--collect catch, effort, and economic data on commercial fishing for NMFS (SC/2-357-R).[3]	39.7	41.6
Virginia	Commercial fisheries inventories--inventory biologic, economic, and sociologic data to develop commercial fishery profiles in the Chesapeake Bay (VA/3-321-D).	68.9	91.9

[3] NMFS has no data collection program for commercial fisheries in the South Carolina region.

GULF COAST STATES REPRESENTATIVE LIST
OF CURRENT KEY P.L. 88-309 PROJECTS
OF REGIONAL IMPORTANCE

GULF STATES AREA	PROJECT TITLE & BRIEF DESCRIPTION	FUNDS REQUIRED FEDERAL $	FUNDS REQUIRED TOTAL $
ALABAMA	Research and development of Alabama coastal fisheries - Monitor the shrimp, oyster, and finfish resources in coastal Alabama and develop relevant management for the fisheries.	143,400	191,200
FLORIDA	Fisheries extension and marketing services program - Initiated extension program designed to teach professional foods people the techniques of fish cookery; proper handling, storing, and preparing fish; and ways to maintain and expand consumer demand for fishery products.	178,188	237,584
	Florida's marine resources research, development, and management program - Identify needs and implement management strategies to achieve the best use and management of Florida's marine resources.	97,612	130,149
LOUISIANA	Coordination and data processing for Louisiana's Federal aid program - Provide supervision and administration over all commercial fisheries research and development projects and provide electronic processing and analysis for research data collected on these projects.	37,500	50,000
MISSISSIPPI	Fishery monitoring and assessment - Collect representative samples of shellfish (except oysters) and finfish as they occur in territorial waters each month.	88,803	118,404
	Commercial fishes of Mississippi: spawning and miscellaneous biological factors - Determine the season of spawning, size of spawning fish, fecundity, and possible area of spawning for the spotted seatrout and red drum in Mississippi Sound and adjacent waters.	49,878	66,503
TEXAS	Finfish harvesting studies in Texas estuaries - Study statistics and method of capture of commercial species in estuaries.	161,250	215,000
	Commercial fishery catch statistics - Gather, compile, publish, and make available fishery statistics for fish, crab, and oyster landings from the coastal area.	28,500	38,000
	Shrimp and finfish investigations in the northwest Gulf - Study movement and growth of the subject stocks by mark-recapture experiments.	56,250	75,000
	Studies of shrimp populations in selected coastal bays of Texas - Determine shrimp movements and abundance in order to recommend shrimp harvest regulations.	54,000	72,000

F STATES A	PROJECT TITLE & BRIEF DESCRIPTION	FUNDS REQUIRED FEDERAL $	 TOTAL $
PUERTO RICO	Commercial fisheries statistics - Collect and analyze commercial fisheries catch statistics from coastal Puerto Rico.	119,250	159,000
	Monitoring and assessment of Puerto Rico's commercial fisheries - Determine seasonal and yearly variation in deepwater demersal fish and spiny lobster.	106,500	142,000
VIRGIN ISLANDS	Commercial fisheries research and development in the U.S. Virgin Islands - Identify needs and implement management strategies to achieve the optimum sustained use of the Virgin Islands commercial marine fishery resources.	25,896	34,528

APPENDIX B

AFS American Fisheries Society
ORGANIZED 1870 | INCORPORATED 1910

JOHN J. MAGNUSON
PRESIDENT 1981-1982

CARL R. SULLIVAN
EXECUTIVE DIRECTOR

ROBERT L. KENDALL
EDITOR

A Resolution of the Northeastern Division of the American Fisheries Society Affirming Continued Appropriations for the Commercial Fisheries Research and Development Act and the Anadromous Fish Conservation Act.

WHEREAS President Reagan's Proposed FY 1983 Federal Budget contains no request for continued appropriations for the Commercial Fisheries Research and Development Act (P.L. 88-309) and the Anadromous Fish Conservation Act (P.L. 89-304); and,

WHEREAS these two laws, since their enactment in the mid-1960's, have provided, through matching grants-in-aid to the States, much of the funding necessary to acquire, analyze and interpret resource and fishery information so vital to sustain intelligent State/Federal management and development of our Nation's fisheries resources, particularly in the marine environment; and,

WHEREAS the vast majority of our Nation's marine fisheries resources are interjurisdictional (i.e., they transcend, or migrate across, boundaries separating areas of Federal and State jurisdiction), thereby connoting a clear Federal, as well as State, responsibility to share in the costs of such management and development requirements; and,

WHEREAS such fisheries resources cannot be effectively managed as single units throughout their range, as required by the Magnuson Fishery Conservation and Management Act of 1976, without continued State/Federal cooperation, including the sharing of associated costs;

NOW, THEREFORE BE IT Resolved by the Northeastern Division of the American Fisheries Society, assembled at its Annual Meeting at the Hyatt Hotel in Cherry Hill, NJ, on April 14, 1982, that the President and the US Congress, respectively be urged to request and restore, appropriations for these Acts in amounts at least equal to those appropriations provided in FY 1981, or to request and enact some appropriate alternative legislation that will provide the Federal funding necessary to accomplish the same objectives.

PACIFIC MARINE FISHERIES COMMISSION

Joint Statement of:

John P. Harville, Executive Director
Pacific Marine Fisheries Commission

Irwin M. Alperin, Executive Director
Atlantic States Marine Fisheries Commission

Charles H. Lyles, Executive Director
Gulf States Marine Fisheries Commission

Mr. Chairman, the three interstate marine fisheries Commissions representing 24 coastal States strongly support the action by your Subcommittee last year in allocating $3 million to the FY 1983 budget of the National Marine Fisheries Service of NOAA for support of cooperative State-Federal research and management under the Anadromous Fish Conservation Act (P.L. 89-304, as amended). We respectfully request that you continue rejuvenation of this important program by funding it at the $3.2 million level requested by the Committee on Merchant Marine and Fisheries for the FY 1984 budget.

We urge this continuing commitment of Federal participation in these cooperative Federal-State programs as a reaffirmation of Congressional intent in several areas. First, Congress repeatedly has emphasized the national interest in effective husbandry of our natural resource base, which from earliest colonial beginning has provided the cornerstone for America's economic growth. With respect to fisheries, the initial Finding of the Magnuson Fishery Conservation and Management Act of 1976 (MFCMA) emphasizes that fishery resources off U.S. shores, including anadromous species, "constitute valuable and renewable natural resources (which) ...contribute to the food supply, economy, and health of the nation and provide recreational opportunities."

MFCMA then establishes Regional Councils to bring about regional conservation and management of these resources to "achieve and maintain, on a continuing basis, the optimum yield from each fishery." The Act also requires (National Standard 3) that each stock of fish "shall be managed as a unit throughout its range", which is clearly a mandate for State-Federal cooperative action for anadromous species which spawn in fresh waters under State jurisdiction and then migrate to the sea for extended migrations through both State and Federal jurisdictions.

Second, in full recognition of our Constitutionally established Federal-State political structure, the Congress repeatedly has addressed the need for Federal/State interaction for conservation and wise management of these regionally distributed natural resources. In the 1960's Congress enacted the Commercial Fisheries Research and Development Act and the Anadromous Fish Conservation Act specifically to establish mechanisms for Federal-State cost-sharing in projects for fisheries conservation, monitoring, data collection, research, and development. Landmark legislation of the 1970's, including the Coastal Zone Management Act, the Marine Mammal Protection and Endangered Species Acts, and the Magnuson Fisheries Conservation and Management Act, specified additional objectives and procedures for State-Federal cooperative interaction, and supportive Federal appropriations have implemented these directives. The States have responded by allocating increasing shares of their own resources to support these regional programs, and particularly have shaped their participation under programs such as the Anadromous Fish Conservation Act to contribute to the research needs and the data base required for wise management of regionally shared fisheries.

We share with you and with other Congressional leaders an acute awareness of the economic crisis this nation faces, and we concur in the need to move aggressively toward effective budget control. However, we cannot agree with the Administration's position that this budget-balancing process requires scuttling a cooperative State-Federal program which was mandated by the Congress to improve our ability to conserve, develop, and use wisely our anadromous fishery resources. Dollars provided to this program on a cost-sharing basis by both State and Federal governments should be viewed as investments in future social and economic benefits, which therefore are budget commitments to be protected as provident uses of public funds for the national welfare.

We also reject the Administration contention that these are essentially State programs, and the States therefore should assume the full burden and responsiblity for them. The biological nature of the anadromous fish life history virtually assures migration through multiple jurisdictions--in most instances both State and Federal, and in some cases, across international boundaries. The United States and Canada in 1982 completed the draft of a salmon conservation and management treaty to coordinate research and wise use of highly valuable salmon stocks whose life cycles span the waters of both nations. Stocks of U.S. origin spawn and are nurtured within State waters. How can the Federal government, holding jurisdiction over ocean waters through which these salmon migrate and are extensively harvested, abdicate responsibility to share in the research, monitoring, and data collection essential for their provident management? This question becomes even more cogent in view of the pending U.S.-Canada treaty, negotiated by the Federal government, and requiring continued Federal action for long-range satisfaction of U.S. obligations pertaining to that treaty.

We offer for your consideration only a few examples of work presently underway which illustrate the regional scope and importance of programs currently being supported by joint State-Federal funding under the Anadromous Fish Conservation Act. In every case, benefits from these programs are regional in scope and therefore of importance to the nation as a whole. In most cases, the programs can be productive only through multi-State and State-Federal coordinated efforts and support.

On the Pacific Coast, Anadromous Fish Conservation Act funding goes totally to salmonid projects. A joint Oregon-Washington project is devoted to coded-wire tagging of hatchery and wild coastal salmon stocks and assessment of contributions to commercial and sport harvests off the Pacific coast, Canada, and S.E. Alaska. This information is essential to management allocation decisions of the Regional Councils, and is an integral component of U.S.-Canada interception agreements under the pending salmon treaty. California researches are concentrated on stock assessments for Klamath, Eel, and Sacramento-San Joaquin Rivers, which are key producers of chinook salmon harvested along the entire Pacific Coast. Klamath River production levels and harvest allocations have been among the most difficult and controversial issues faced by the Pacific Fishery Management Council in recent years, and an improved data base is urgently needed.

Anadromous Fish Conservation Act funds, comprised of 1-1 State-Federal matching contributions, also are supporting researches essential for improving the productivity of Pacific salmon stocks. Long-term researches in Oregon seek improvements in nutrition to enhance hatchery productivity and overall cost effectiveness. Other studies are attacking the disease problems which plague both hatchery and wild salmonid stocks. Benefits from these programs have nation-wide applications and values.

Along the Gulf Coast, Anadromous Fish Conservation Act funds have been devoted principally to striped bass research and habitat improvement, resulting in the return of the striper as an important target species for Gulf States fishermen.

Along the Atlantic seaboard, under impetus provided by the Chafee Emergency Striped Bass Study Amendment, a comprehensive research and management program has been initiated under joint USFWS-NMFS-Atlantic States sponsorship. A Striped Bass Study Planning and Coordinating Committee has developed a coastwide plan of action through a Plan Development Team which includes representatives from NMFS and USFWS Regional offices and research Centers, from the State/Federal Fishery Management Program, from EPA, and from the National Sea Grant Program. This action plan has focussed upon both species problems and habitat problems implicated in the decline of Atlantic striped bass stocks. Included have been stock assessments of juvenile abundance in the Hudson, Delaware, and Roanoke Rivers and the tributaries of Chesapeake Bay, studies of the stock structure of the region to determine relative contributions of major producing rivers, and landings data by age, sex, and location. Environmental contaminant studies relating to egg, larval, and young-of-the-year survival, and other environmental factors affecting that survival have been assessed. All of these programs, plus implementation of a coastwide management plan for striped bass, can continue to move forward only if provided necessary Federal and State support, for which the Anadromous Fish Conservation Act including the "Chafee Amendment" provides an ideal mechanism.

Leaders of the two Federal agencies sharing responsibility for program administration under the Anadromous Fish Conservation Act have endorsed the need for effective Federal-State interactions for management of shared fishery resources. National Marine Fisheries Service Director William G. Gordon, in a policy speech before the Pacific Marine Fisheries Commission in November 1981, underscored development over the past several decades of mechanisms for bridging the gap among separate jurisdictions governing shared resources. He cited creation of our three interstate marine fisheries commissions as steps toward multi-State cooperation in fisheries affairs; also Congressional enactment of the U.S. Fish and Wildlife Act (1956), the Commercial Fisheries Research and Development Act (1964) and the Anadromous Fish Conservation Act (1965) as mechanisms to improve fisheries research and management and assure that these renewable natural resources make a material contribution to the national economy and national food supply.

Gordon cited conclusions of the 1969 Stratton Commission that the burgeoning ills and problems of U.S. fisheries could be traced to two basic causes--the common property nature of these resources, and the multiplicity of jurisdictions responsible for their conservation and management. Gordon particularly identified progress made in the decade of the 70's under the NMFS State/Federal Fisheries Management Program in the "pioneering of a cooperative approach to marine fisheries management, (much of which became) written into the Magnuson Fishery Conservation and Management Act... It is an understatement to say that the success of the Act depends upon effective State/Federal interaction, because most of the resources receiving attention under the Act's authority occur, and are harvested in, both the FCZ and State waters."

Both in his speech and in the public discussion thereafter, Gordon recognized the significant contributions of the Anadromous Fish Conservation Act to Pacific Coast salmon and steelhead conservation and management. Particularly he cited the importance of salmonid stock assessment studies through micro-tagging and tag recovery, also the development of fishery models to quantify the impact of proposed management practices, which are basic necessities for Regional Management Council preparation of fishery management plans. He also acknowledged the essential contributions of all salmonid studies for meeting the scientific data exchange requirements basic to the ongoing negotiation of a U.S.-Canada treaty for coordinated management of salmonid fisheries.

U.S. Fish and Wildlife Service leaders also have stressed the need for interagency cooperation for research and management of shared fishery resources, and the benefit to the nation from provident management of our anadromous fisheries. Testimony in 1979 before the House Subcommittee on Fish and Wildlife Conservation and the Environment noted the following:

> "...The species of fish that benefit from the Anadromous Fish Conservation Act provide our Nation with a nutritional, recreational, and aesthetic resource... These species of fish are influenced to a greater degree than

> other fish by changes in the environment. Anadromous fish thrive only when conditions in the headwaters, downstream areas, and the oceans are suitable for the stages of the life cycle using those areas. Deleterious conditions in any one area may have harmful effects on entire populations...
>
> "..there are many problems that reach beyond State boundaries. Your Committee recognized this in sponsoring legislation to establish and twice extend the authorization for the Anadromous Fish Conservation Act, thus providing a stable and beneficial Federal-State cooperative program."

Mr. Chairman, we believe that these public statements by Federal agency leaders powerfully reinforce our position on behalf of our 24 member States that the Anadromous Fish Conservation Act provides a vital linkage of Federal and State capabilities for anadromous fisheries conservation and provident management. Failure to continue Federal support for these anadromous fish programs places present and future benefits in grave jeopardy. Continued success depends upon continued cooperation among the States and with the Federal government. Because these are programs of regional and national value, the States should not be expected to shoulder the total burden, nor are they able to, under currently severe constraints on State budgets and resources. If the Federal government abdicates these regional responsibilities, existing long-term programs either will be severely cut back or totally eliminated.

Perhaps even more important in the long run, failure to maintain a reasonable level of Federal funding for Anadromous Fish Conservation Act programs will be seen as a Federal repudiation of the basic rationale for cooperative Federal-State support of research, management, and enhancement of shared anadromous fish resources. Certainly it will force the scrapping of the operational mechanisms which have enabled our State and Federal agencies to work together so productively on problems and programs of regional importance. We therefore respectfully urge that this Committee take steps to prevent these unacceptable losses of Federal-State cooperative programs by inclusion of a reasonable level of funding ($3.2 million) for Anadromous Fish Conservation Act programs in the FY 1984 budget of the National Marine Fisheries Service.

We believe six compelling arguments can be summarized for continued Federal participation with the States in jointly funded programs for anadromous fish monitoring, research, and management under provisions of the Anadromous Fish Conservation Act:

- implementation of Congressional intent that natural resources subject to multijurisdictional control be managed cooperatively and in the national interest, and therefore;

- support for fishery monitoring, data collection, and relevant research required under anadromous fishery management plans of the Regional Fishery Management Councils and State/Federal Management Boards;

- assurance of returns from existing heavy investments in the stock assessments and other biological studies required for improved productivity and management of anadromous fisheries, and for equitable allocation of harvest benefits;

- satisfaction of international commitments with Canada for fisheries data exchange as a fundamental basis for upcoming treaty agreements;

- public values and demonstrated cost-effectiveness of these cooperative State-Federal programs; and

- contributions by anadromous fisheries to the national economy.

In a supplement prepared for review by your staff, we have amplified each of these basic arguments for restoration of reasonable Federal funding to the National Marine Fisheries Service budget for Anadromous Fish Conservation Act programs.

Please call upon us or upon any of our member States if we can provide further information or documentation helpful to your deliberations.

PACIFIC MARINE FISHERIES COMMISSION

Supplemental information in support of the
Anadromous Fish Conservation Act (P.L. 89-304)[1]

1. *Federal funding for programs under the Anadromous Fish Conservation Act (P.L. 89-304) is required to carry out the Congressional intent that natural resources subject to multijurisdictional control be managed cooperatively and in the national interest.*

Legislation in the 1970's has emphasized repeatedly the Congressional intent that in the national interest, regionally important natural resources should be conserved and managed cooperatively by Federal and State jurisdictions responsible for them. This approach and its emphasis on potential contributions to the national economy is perhaps best expressed in the landmark extension of fisheries jurisdiction to 200 miles--the Magnuson Fishery Conservation and Management Act (MFCMA).

National Standard 3 of MFCMA specifies that "to the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination." The Act then specifies that regional fishery management plans be developed for each significant fishery by Congressionally mandated Regional Fishery Management Councils. These Councils are comprised of State and Federal fishery agency Directors and private sector members appointed by the Secretary of Commerce.

Implementation of fishery management plans for any fishery distributed across multiple jurisdictions (e.g., Federally controlled waters of the Fishery Conservation Zone beyond 3 miles, and the Territorial Seas controlled by individual States inside the 3-mile limit) requires coordinated and cooperative fishery monitoring, data collection, on-going research, and enforcement by all concerned agencies--Federal and State.

The Findings, Purpose, and Policy under which MFCMA was established emphasize the values of marine and anadromous fisheries as "valuable and renewable natural resources" upon which commercial and recreational fishing depends. Finding 3 notes that this fishing "constitutes a major source of employment and contributes significantly to the economy of the Nation." Finding 6 expressly specifies an action program to maximize national benefits from these resources and their use, as follows:

"A national program for conservation and management of the fishery resources of the United States is necessary to prevent overfishing, to rebuild overfished stocks, to insure conservation, and to realize the full potential of the Nation's fishery resources". Finding 7 notes the importance of full development of the Nation's fishery resources "to assure that our citizens benefit from the employment, food supply, and revenue which could be generated thereby".

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[1] Prepared and submitted by the Pacific Marine Fisheries Commission, Atlantic States Marine Fisheries Commission and Gulf States Marine Fisheries Commission on behalf of their 24 coastal States.

The. U.S. Fish and Wildlife Service (Dept. of Interior) and the National Marine Fisheries Service (NOAA, Dept. of Commerce) share Federal responsibilities for anadromous fish species and habitats, including management of programs under the Anadromous Fish Conservation Act, and therefore cooperative interaction with the States. In general, USFWS directs principle attention to the inland waters and habitats of anadromous species; therefore to needs and problems of propagation, habitat protection and rehabilitation. NMFS emphasis is more heavily upon the ocean phase of anadromous fisheries, including ocean harvest management under Regional Fishery Management Council Plans beyond three miles, and by the several sovereign States in territorial and inland waters.

This dual Federal responsibility has worked exceedingly well. For a number of important projects, NMFS and USFWS share funding. Regional Coordinators for the two agencies work closely together in setting priorities for projects on the Pacific Coast, and an Anadromous Fish Coordinating Committee has been established and has functioned effectively for the same purposes at the national level. We commend the Directors of USFWS and NMFS for establishing these sensible and productive working relationships, which certainly are consistent with the rationale for interagency cooperation which is the foundation for the Anadromous Fish Conservation Act.

U.S. Fish and Wildlife Service policy and priorities for programs established jointly with the States for support under the Anadromous Fish Conservation Act continue to be strongly supportive of the intent of Congress as manifested in the landmark legislation of the 1970's. The most recent USFWS Program Management Document (1980) similarly emphasizes Federal-State interactions, setting as its principle mission to:

> "Provide the Federal leadership to conserve, protect, and enhance the fish and wildlife and their habitats for the continuing benefit to people."

The document amplifies this mission as follows:

> "The primary role of the Service's Fishery Resources Program is to promote the conservation and management of fish resources... A principle concern must be to enhance the health, diversity, and abundance of fish and their habitat. This role can be accomplished by coordinating programs and projects and providing technical assistance to the States and other agencies in those areas where the Service has no direct jurisdiction...

Relevant general objectives include participation in interagency fishery management plans for Pacific salmon and steelhead trout, development of supportive fishery information systems, improving techniques for fish propagation effectiveness, assessing effects of various harvest management strategies on the stability of fishery resources, and improving the information base concerning causes, treatments, and prevention of specific fish diseases and parasites. Several objectives specifically depend upon tangible interagency cooperation, specifying that, in cooperation with the States, NMFS, and BIA, the Service will seek to increase spawning runs of Pacific salmonids to levels consistent with habitat productivities and hatchery broodstock needs; also an objective setting a 1985 target of a 10% reduction in mortality rates of juvenile salmonids in Pacific States freshwater and estuarine habitats. These objectives also included salmon stock contribution studies along the Alaskan panhandle; four State planning and research projects for the Connecticut River Basin (Connecticut, Massachusetts, New Hampshire, and Vermont), and a similar array of projects for the Delaware River Basin; anadromous fish hatchery and other fish production support in more than a dozen States, and a similar array of research programs including salmon stock assessments in Southeastern Alaska; evaluations of a river restoration program in Maine; and life history, growth, and migration studies in North Carolina.

The five member States of Alaska, California, Idaho, Oregon, and Washington which comprise the Pacific Marine Fisheries Commission (PMFC) in 1981 unanimously endorsed a Resolution emphasizing the importance of continued Federal participation in the Federal-State partnership for conservation and wise use of shared fishery resources. That Resolution notes that recent Federal Acts such as MFCMA, the Endangered Species Act and the Marine Mammal Protection Act have established national standards which demand extensive biological, social, and economic data as basis for management decisions. Much of the research and monitoring burden for fulfilling those requirements necessarily falls upon the coastal States. While the States are strongly committed to the objectives and programs required under these Federal mandates, they too face severe budgetary constraints. Therefore PMFC's 1981 Resolution 7 calls upon Federal agencies "to establish long-term, base budget funding to support Federally mandated fishery management programs", and urges the Congress to "provide the Federal share of financial support to carry out these programs in cooperation with the States". A 1982 PMFC Resolution reiterated the importance of continued Federal funding for these programs. (texts of 1981 and 1982 Resolutions are appended.)

2. *Programs under the Anadromous Fish Conservation Act (P.L. 89-304) offer the best available vehicle for continued Federal-State cost-sharing for support of the anadromous fishery monitoring, data collection, and relevant research required under Fishery Management Plans of the Regional Fishery Management Councils and State/Federal Management Boards.*

As was noted in the previous section, major added burdens have been placed upon Anadromous Fish Conservation Act programs by enactment in 1976 of the (Magnuson) Fisheries Conservation and Management Act (MFCMA). National Standards established by that Act require that to the extent possible, fisheries be managed as a unit throughout their geographic range; also that conservation and management be based upon the best scientific information available.

Pacific salmon conservation and management problems well illustrate the need for sustained and concerted action by all our management agencies to develop the information base necessary for critical annual decisions and actions. To illustrate, salmon management plans developed by the Pacific and North Pacific Fishery Management Councils require accurate assessment of impacts of ocean harvests on a mix of salmon stocks of wide-ranging geographic origin. Without these and other assessments, under the political pressures to permit optimum utilization of stronger stocks, salmon resources from California to Alaska can be adversely affected by management decisions which fail to offer maximum protection to depleted and endangered stocks.

Decisions by both the Pacific and the North Pacific Councils in recent years have hinged upon interpretation of data from recent coded-wire tag studies. Federal court decisions have upheld U.S. obligations under century-old Indian treaties to provide treaty tribes of the Columbia River and northern Washington opportunity to harvest their fair share of salmon and steelhead ascending the rivers to "usual and accustomed" tribal fishing grounds. Therefore State-Federal management of ocean and river fisheries must permit escapement to those rivers of amounts of fish prescribed by these court decisions.

To assure river escapements at levels which will meet both treaty Indian harvest and fish spawning escapement goals, the migrating routes of relevant fish stocks must be known and oceanic harvests controlled. As example, recent tagging studies indicate that a large proportion of chinook salmon harvested by the ocean troll fishery off Southeastern Alaska and British Columbia are of upper Columbia River origin; also that those upper Columbia River stocks are in seriously depleted condition. These tagging studies also indicate that Southeastern Alaska and British Columbia troll fisheries take nearly two-thirds of the total ocean harvest of these depleted stocks. These facts, plus the significantly depressed state of Alaskan chinook stocks as demonstrated by Alaska's coded-wire tagging studies, provided the basis for a decision of the North Pacific Council (March 27, 1981) to reduce the allowable harvest of the Southeastern Alaska troll fishery by 15% for the 1981 fishing season. This action was accompanied by the mandate to negotiate for similar reductions by British Columbia fishermen, and a demand for significant improvements in the statistical base for future decision-making through augmented studies of stocks and analysis of data.

The Pacific Fishery Management Council also has depended heavily for critical decisions on data from coded-wire tagging experiments. In 1978, after days of debate for which coded-wire tag recoveries were a critical element, the Pacific Council moved its boundary between north and south salmon management areas from Tillamook Head, close to the Columbia River mouth, southward to Cape Falcon. While this shift involved only a few miles of coast-line distance, tag recovery data indicated that more restrictive harvests north of that line could provide significant added protection to depressed Columbia River stocks, while at the same time somewhat more liberal regulations south of the line could permit fuller utilization of stronger south coastal stocks.

In 1981, similar determinations became necessary regarding boundaries to protect depressed Klamath River (Northern California) runs. Again chiefly on the basis of coded-wire tag data, management division lines were considered to reduce ocean harvest pressures on these depressed stocks, and thus increase chinook salmon escapements to the Klamath River as a means to better meet Indian harvest requirements, non-Indian fishing opportunities, and necessary spawning escapements.

While a major share of Anadromous Fish Conservation Act program emphasis is upon coded-wire tagging and stock assessments, P.L. 89-304 also assists other projects for improved management and productivity of salmon which further support Regional Council management goals. As examples, California and Oregon presently carry out major upriver stock and habitat studies designed to increase the overall productivity of presently depressed stocks of major salmon rivers such as the Klamath in California. Also under P.L. 89-304, Federal fisheries agencies, the Oregon Fish and Wildlife Department, and Oregon State University cooperatively support critically important researches into causes and prevention of viral diseases of salmonid fishes. P.L. 89-304 funding also supports a treaty Indian catch record system which enables Columbia River Tribes to provide compatible catch data to the regional data network required for proper management and allocation of salmon harvest. Still another project supports State and Federal cooperation with the University of Washington for development of an acoustical fish-counter which can more economically and accurately enumerate upstream migration of mature salmon and steelhead. Without continued Federal participation with the States in financial support for these and other relevant projects, all are in jeopardy, and the gains already achieved may be partially sacrificed.

The five Pacific States comprising the Pacific Marine Fisheries Commission (PMFC) in 1980 unanimously approved a Resolution calling for assured funding and coordination for anadromous fish programs in support of those National Standards and the fisheries management plans of the Regional Fisheries Management Councils. That Resolution emphasizes the current crisis condition of Pacific coast salmon and steelhead stocks, the importance of on-going stock assessment progams and data collection and analysis required for decision-making, and the problems facing those programs under current funding uncertainties. The Resolution therefore calls for Congressional and Executive Branch initiatives to "provide the necessary financial support for this coordinated effort by designation of the required funds for that purpose in the budgets of the National Marine Fisheries Service and the U.S. Fish and Wildlife Service." (cf. Attachment 2 for full text of 1980 Resolution 3).

3. *Continued State-Federal cooperative programs under the Anadromous Fish Conservation Act are essential to assure returns from existing heavy investments in stock assessments and other biological studies which are required for improved productivity and management of anadromous fisheries and for equitable allocation of harvest benefits.*

Some 20 State, Federal, and Indian tribal agencies presently participate in a massive Pacific area-wide program to determine contributions to ocean and river fisheries of various stocks of salmon and steelhead. This information provides the basis for allocation of harvest rights among competing users, maintenance of interception balances between U.S. and Canadian nationals, improvements in productivity of hatchery stocks, and many other functional tasks essential to effective fisheries management.

For those purposes, coded micro-wire tags are implanted in the snouts of juvenile fish prior to their seaward migration from hatcheries or natural spawning areas. More than 20 million fish per year have received these tags in recent years. Salmon feed in the ocean from one to five years before returning to their spawning grounds. Thus the oceans today swarm with many millions of maturing salmon and steelhead which carry in their snouts a multi-million dollar Federal, State, and private sector investment in these micro-tags and in the encoded data they can transmit concerning stream and date of origin, and other biological and ecological characteristics vital to future management of stocks and equitable allocation of harvest benefits.

Incredibly, the Administration now proposes that this existing massive investment be squandered for lack of continued Federal participation in the costs of recovering these tagged fish and decoding the vital information carried in their micro-tags. In recent years the Anadromous Fish Conservation Act (P.L. 89-304) has provided the principal mechanism for State-Federal sharing (generally at a 50-50 ratio) of the costs of coded-wire tag recovery and data exchange on a Pacific Coast-wide basis. Because of curtailment of other sources for Federal sharing in this program (e.g., loss of Pacific Northwest Regional Commission and Northwest and Alaska Fishery Center (NMFS) support for early program development stages), continued 89-304 funding has become crucial to maintaining this Pacific regional program.

It will indeed be disastrous if for lack of relatively modest Federal participation in this cooperative program ($0.8 million at the projected funding level), long-term State and Federal investments over past years in this coastwide stock assessment program are jeopardized, and our agencies are forced to forgo both the knowledge of stock distribution required for future planning, and the only credible tool available today for equitable allocation of harvest privileges among competing user-groups. The ultimate losers will be the commerical and recreational fishermen and general public who harvest the benefits from these investments.

These losses of coded-wire tagging data constitute only a part of the total cost of curtailing Federal participation in cooperative State-Federal anadromous fisheries projects. Much of the investment already made in other on-going projects will be sacrificed if those programs must be aborted before reaching their objectives. On the Pacific coast these include major investments to improve the fish husbandry practices which must supply a large proportion of the Pacific salmon and steelhead now being harvested by both commerical and recreational users. Other programs of long-term potential significance presently are underway to combat serious viral and bacterial diseases through development of vaccines and other controls. Still other projects address nutritional problems through development and improvement of practical rations for fish feeding. A wide array of physiological and genetic studies are evaluating optimum environmental conditions for a variety of different fish stocks as basis for more efficient and fruitful fish production. Most of these studies require coded-wire tagging assessments of impacts, and all depend upon maintenance of staff and program continuity.

4. *Continued Federal-State cooperative monitoring, data collection, and related researches on anadromous fisheries are essential to satisfy developing international commitments with Canada for fisheries data exchange as a fundamental basis for upcoming treaty agreements.*

The oceanic migrations of most anadromous fish species carry them far from their natal streams and therefore through the waters of many management jurisdictions. Pacific salmon have particularly extensive migration routes, ranging through the waters of California, Oregon, Washington, British Columbia, and Alaska. In all jurisdictions, these wide-ranging fishes are vulnerable to fishermen. Clearly that multijurisdictional ocean harvest must be regulated by mutual agreement to assure equitable distribution of benefits among all users and all jurisdictions. Clearly too, the coded-wire tagging studies which provide the principal basis for these allocations must be a cooperative effort among all users--the States, Canadian Territories, and Indian tribes controlling the freshwater spawning grounds, and the Federal governments of the United States and Canada which control the offshore waters of the Pacific and have responsibility for international treaties and other agreements. Within the United States, these data are particularly critical to decisions relating to Indian harvest allocations in accordance with long-standing treaty obligations.

Happily for the welfare of the resource and for our efforts to manage fisheries intelligently, all jurisdictions--State, Federal, and Indian; U.S. and Canadian--presently cooperate effectively in tagging and recovery of salmon and steelhead, and voluntarily comply with an agreed-upon system for assigning tag codes and for exchanging and publishing the data derived from tagging experiments. Long-standing U.S.-Canada informal agreements target upon 20% sampling of the salmon catch for coded-wire tag recovery and data interpretation purposes.

United States and Canadian representatives finally have completed negotiation of a treaty for joint management of shared anadromous fisheries resources--an agreement which will assure an equitable balance of interceptions by fishermen of each nation of salmon and steelhead spawned in the rivers of the other nation. That treaty should reach the United States Senate later this year for ratification. Cornerstone of that treaty will be an augmented program of coordinated research designed to improve productivity and guide cooperative management of these valuable salmon resources. Our on-going coded-wire tagging programs are the foundation for those studies.

It will indeed be a travesty if we now abort those programs through failure to appreciate their importance; if we thereby fail to carry our share of the effort to recover the enormous U.S. and Canadian investment already made in the millions of fish now carrying coded-wire tags; and if we thus sacrifice irretrievably the data base necessary for implementation of the treaty now in final stages of preparation. Because of these international implications, maintenance of this cooperative program is primarily a Federal responsibility. While the States, the Indian tribes, and the private sector can be expected to share significantly in these costs, reasonable Federal support must continue to be provided. We urge that the Congress take steps now to assure continuation of that shared State-Federal support for a program so clearly in the general public interest.

5. *Anadromous Fish Conservation Act programs have demonstrated their cost-effectiveness and public values over the years since inauguration of this program in 1965.*

Cooperative State-Federal progams and projects supported under the Anadromous fish Conservation Act have a proven track-record of productive research, management, and enhancement of anadromous fishery resources. Federal appropriations since enactment in 1967 total more than $60 million, and have generated an approximate equivalent in State matching funds. Based on U.S. Fish and Wildlife Service testimony in 1974, that $60 million federal investment appears to have generated between $360-$480 million in public benefits--a 6-8 to 1 benefit-cost ratio.

A 1979 update of that USFWS testimony summarized program values as follows[2]:

> "...I am pleased to say that this has been a successful program in relation to its cost. Recreational fishing for anadromous fish has been increased by an estimated 8 million angler-days annually. The economic value of this is estimated conservatively at $72 million per year. Commercial fisheries landings have been increased by an estimated $5 million annually... The program (also) has stimulated

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[2] Galen Buterbaugh testimony, February 28, 1979, before the Fisheries and Wildife Conservation and Environment Subcommittee of the House Merchant Marine and Fisheries Commission

cooperation between States in solving their anadromous fish problems...".

Commercial and recreational users of the Pacific and Atlantic coasts long have placed very high values on anadromous species such as salmon, steelhead, and striped bass. These species are assuming ever-increasing importance to citizens of the Great Lakes and Gulf coasts. The growth of Gulf coast striped bass fisheries illustrates the long-term contribution of P.L. 89-304 to that region. In the early 1960's, the striped bass resource in Mississippi was nearly non-existent. Habitat degradation and pollution in coastal streams and estuaries in which the fish spawn and rear during part of their life cycle were so severe that local striped bass populations were no longer self-sustaining.

Congressional appropriations under P.L. 89-304, plus matching funds provided by the State, have permitted Mississippi and Alabama to begin programs of stream clearance and pollution abatement, research, artificial culture, and stocking. These programs have been on-going since 1967 and have been extremely important to the Gulf States. The efforts of this program has been directed towards establishing a stock of fish that will grow to adult fish and spawn in the coastal waters of the Gulf states. It has been determined that fish released in the coastal waters reach sexual maturity but it was difficult to positively identify eggs and larvae from this stock of fish. In order to acquire this type of information, Mississippi and Alabama have entered into formal agreement in which Mississippi will produce Phase I fingerlings which are to be taken to ponds in Alabama where they will be reared to Phase II fingerlings. The stock thus produced is shared equally between Alabama and Mississippi and will be tagged and stocked in the streams of each state. Thus, if fingerlings are found smaller than the tagged Phase II fingerlings that were released it can safely be assumed that stripers are spawning in local waters.

Louisiana and Mississippi have worked on a cooperative stocking program in the Pearl River, a boundary between the two states, without a formal agreement. Today the striper is once again being sought after by the fishing communities across the Gulf and the program has strong support among the fishing communities.

Anadromous fisheries resources of the Atlantic coast contribute major economic benefits to both commercial and recreational fisheries sectors. These fisheries include striped bass, American shad and three related species of river herrings, Atlantic salmon, coho salmon introduced from the West Coast, and two species of sturgeon. All of these species are heavily impacted by the activities of man, through fisheries practices, by gross pollution of their natal streams, and by environmental and physical barriers such as dams, which impede or exclude their ability to return from the sea to upriver spawning areas. Because anadromous fishes traverse the fisheries jurisdictions of the Federal government and numerous States, they have been among the first species to benefit from joint State-Federal and interstate arrangements for their protection, conservation, and enhancement and in 1956, joint State-Federal funding under the Anadromous Fish Conservation Act has been the cornerstone of numerous programs to accelerate and enhance these cooperative State-Federal endeavors.

In recent history striped bass always have ranked among the ten highest Atlantic coast species in both volume and value in the commercial fisheries. Recreational landings, which have been reported to be three to eight times larger than the reported commercial catch, have ranked among the top three species in the North Carolina to Maine area in both weight and numbers.

More recently the striped bass population of the East Coast has suffered a catastrophic decline. This popular species provided high levels of commercial and recreational landings from the 1950's to the mid-1970's, but may now be at an all-time low throughout migratory range, from North Carolina to Maine. Commercial landings which average 9.5 million pounds between 1958 and 1976 fell to 4.5 million pounds in 1978 and have continued to decline ever since. This striped bass decline appears to be related to failure of striped bass to spawn successfully, produce large numbers of juveniles, and recruit them to the fisheries. In a valiant effort to develop a management plan to rejuvenate the striped bass fishery throughout its range, twelve States, the National Marine Fisheries Service, the U.S. Fish and Service, and the Atlantic States Marine Fisheries Commission have committed their joint efforts, manpower and funds to a long-range cooperative program.

Since most spawning areas are interstate (e.g., Chesapeake Bay and the Hudson River shared by New York and New Jersey) and since oceanic migrations are coastwide, this multijurisdictional approach is absolutely essential. Initial work has centered upon investigations into the root causes of this disastrous population decline.

Recent Congressional approval of the "Chafee Amendment" for special emergency striped bass funding under the Anadromous Fish Conservation Act has provided significant added impetus to this cooperative effort. However, only sustained funding to implement this plan and to monitor its results will guarantee the greatest possible net economic and social benefits from the harvest and utilization of striped bass over time. The key element must continue to be the matching funds under P.L. 89-304 which can generate an effective multijurisdictional approach. Without this kind of assistance, the program will disintegrate, and in all probability so will the resource.

Numerous smaller cooperative anadromous fish programs on the Atlantic coast are equally vulnerable to termination of denied support under the Anadromous Fish Conservation Act program. Examples include the multi-State-Federal program for restoration and enhancement of Connecticut River fisheries for Atlantic salmon, American shad, and river herring, a similar program on the Merrimack River shared by Massachusetts and New Hamsphire with input from both States, the National Marine Fisheries Service and the Fish and Wildlife Service; another for shad and striped bass in the Delaware River Basin involving Delaware, New Jersey, New York, and Pennsylvania and the Fish and Wildlife Service; a joint program for the management of anadromous fish resources for shad, river herring, sturgeon, and striped bass between South Carolina and Georgia; and a joint study by Virginia and North Carolina for management of mid-Atlantic anadromous fisheries under extended jurisdiction. These and related efforts are dependent at least in part on funds appropriated under the Anadromous Fish Conservation Act, and it is impossible to conceive of their continuance without this assistance.

These resources are subject to conservation and management by both Federal and State authorities, and their harvest confers benefits upon the citizens of the entire region. Responsibility for protection and wise use of these resources accordingly rests with all concerned jurisdictions. This argues strongly for continuation of a program designed to assure effective State-Federal cooperation and sharing of manpower, physical resources, and funding support--the Anadromous Fish Conservation Act program (P.L. 89-304).

We respectfully request Congressional leadership to assure the continuity of these vital programs. We fully appreciate the gravity of the national economic emergency, and are prepared to accept a share of the sacrifices necessary to restore economic stability. However, we must emphasize that Federal support for the Anadromous Fish Conservation Act has remained at relatively low levels since the early 1970's. (cf. Attachment 3 for a review of authorizations and aproprlations 1967-1985). As recent examples, combined appropriations for both NMFS (Commerce) and USFWS (Interior) were $4.33 million in 1971, increasing to $5.71 million in 1980. Unfortunately this 32% increase over nine years was undercut by a cummulative 50% drop in dollar value as a result of inflation. Thus the 1980 appropriation of $5.71 million actually purchased goods and services at only a $2.8 million level in 1971 dollars--a 35% decrease in real purchasing power below the 1971 level.

These inflation-caused losses in program support capability were further exacerbated in FY 1981 by a $1 million reduction in the appropriation for USFWS programs under P.L. 89-304 and in 1982 by loss of all funding. Under the continuing bite of inflation, the combined FY 1981 appropriation for NMFS and USFWS ($4.7 million) had a purchasing power in 1971 dollars of only about

$2 million--less than 50% of the real program support provided in 1971. While the $3.5 million we have proposed for USFWS programs in 1984 clearly will not restore program support to 1979-80 levels, it will provide a Federal commitment of funds that, matched by State dollars, will enable us to hold the line on our essential cooperative programs.

6. *Anadromous fishery resources, for which the Anadromous Fish Conservation Act provides essential conservation and management services, make important contributions to the U.S. national economy.*

Annual total values of specific anadromous fisheries are difficult to estimate at best and not readily available, even though public interest and commitment to maintaining those fisheries demonstrates a perception that they are great. Fortunately, development of a Fishery Management Plan for Pacific salmon does provide some illustrative values as follows:

- Recent (1980) preliminary estimates of annual ex-vessel value of commercially-caught salmon in S.E. Alaska and the three Pacific Coast States is $174.5 million. Using a multiplier range of 2 to 4 to account for value-added at the retail level, the commercial salmon catch can be valued between $349 and $698 million to the U.S. economy.

- The estimated net economic value of recreational salmon and steelhead fishing in Washington and Oregon marine and freshwater areas is $73.7 million. Recreational salmon values for California, Idaho, and S.E. Alaska are unavailable but would add considerably to this estimate.

- In addition to these direct economic benefits, salmon fishing generates significant secondary economic activity. Regional economic benefits from anadromous fish production in the Columbia River alone are estimated at $102 million annually.

Attachment 1

PACIFIC MARINE FISHERIES COMMISSION RESOLUTION NO. 7

FEDERAL RESPONSIBILITY TO FUND FEDERALLY MANDATED PROGRAMS

WHEREAS, recent Federal Acts such as the Endangered Species Act, Marine Mammal Protection Act and the Magnuson Fishery Conservation and Management Act have established exacting standards for resource management; and

WHEREAS, these standards include requirements for extensive biological, social, and economic data upon which management decisions are based; and

WHEREAS, the states of Alaska, Washington, Oregon, Idaho, and California are providing most of the research and monitoring efforts to provide these data; and

WHEREAS, state fiscal problems coupled with pending reductions in federal grant-in-aid will decrease funds available to the states to support these programs; and

WHEREAS, the Departments of Commerce and Interior have not provided long-term base funding for the support of these programs; and

WHEREAS, the Pacific Marine Fisheries Commission unanimously approved Resolution No. 3 in 1980 calling for USFWS and NMFS to support coastwide anadromous fish tagging and recovery programs citing the needs for management under the MFCMA;

THEREFORE BE IT RESOLVED, that the U.S. Departments of Commerce and Interior be obligated to establish long-term, base budget funding to support Federally mandated fishery management programs, including but not necessarily limited to: Commercial Fisheries Research and Development Act, Anadromous Fisheries Conservation Act, Endangered Species Act, Marine Mammal Protection Act and Magnuson Fishery Conservation and Management Act; and

BE IT FURTHER RESOLVED, that the United States Congress be obligated to provide the federal share of financial support to carry out these programs in cooperation with the States.

Adopted at Portland, Oregon November 10, 1981
by unanimous approval of the five compact States:
Alaska, California, Idaho, Oregon, and Washington

Attachment 2

PACIFIC MARINE FISHERIES COMMISSION RESOLUTION NO. 3

CONTINUED FUNDING OF ANADROMOUS FISH CONSERVATION ACT

WHEREAS, development and implementation of fishery management plans resulting from federal mandates such as the MFCMA require establishing data on which management decisions can be made; and

WHEREAS, the salmon regulations developed by the Pacific Fishery Management Council require extensive biological, social and economic data; and

WHEREAS, these data result primarily from research and monitoring on stocks of salmon of the States of Alaska, California, Idaho, Oregon and Washington; and

WHEREAS, studies now underway are designed to provide continuing data for management of salmon resources; and

WHEREAS, support for these studies were provided by means of State and Federal matching funds under the Anadromous Fish Conservation Act (P.L. 89-304); and

WHEREAS, additional studies and research are needed to evaluate the validity of escapement goals established for some river systems; obtain data on other river systems where no data exists; and provide data to assist in the restoration of fish stocks or mitigation of fish losses; and

WHEREAS, State fiscal problems and pending reductions in this Federal grant-in-aid program will decrease funds available to the States for conducting these programs;

THEREFORE BE IT RESOLVED, that Pacific Marine Fisheries Commission (PMFC) urge the U.S. Congress to continue funding P.L. 89-304 at levels which permit the States to fulfill obligations demanded by Federal mandates; and

BE IT FURTHER RESOLVED, that copies of this resolution be provided the congressional delegations of all PMFC member States..

Adopted unanimously by the five Compact
States of Alaska, California, Idaho,
Oregon, and Washington on November 16, 1982
at Monterey, California

Attachment 3

ANADROMOUS FISH CONSERVATION ACT OF 1965

(P.L. 89-304)

REVIEW OF AUTHORIZATIONS AND APPROPRIATIONS ($ MILLIONS)

CONGRESSIONAL AUTHORIZATIONS		CONGRESSIONAL APPROPRIATIONS		
FISCAL YEAR(S)	AUTHORIZED	NOAA/NMFS	BSFW/FWS	TOTAL
1966-1970	5.0	1.0-2.1	1.2-2.4	2.2-4.5
1971	6.0	2.0	2.33	4.33
1972	7.5	2.0	2.33	4.33
1973	8.5	2.0	2.33	4.33
1974	10.0	2.0	1.83	3.83
1975	20.0	2.0	2.63	4.63
1976-1978	20.0	2.0	3.51	5.51
1979	20.0	2.0	3.61	5.61
1980	11.0	2.0	3.71	5.71
1981	13.5	4.0	2.71	6.71
1982	15.5	3.0	-0-	3.0
1983	7.5	3.0	3.5	6.5
1984	7.5			
1985	7.5			

SUMMARY: Congressional authorizations have fluctuated annually between $5.0 million and $20 million during fiscal years 1967-1985.

Despite continued Congressional recognition of program value and need, appropriations under the Act have not kept pace, decreasing from 72% of the authorized amount in 1971 to 28% in 1979, and only 20% in 1982. This problem has been exacerbated by progressive deterioration of dollar purchasing power due to inflation over this same time period (1982 dollars have only some 40% of the purchasing power of 1971 dollars). The 1983-1985 reduction in authorization reflects a realistic recognition of current economic problems, and the 1983 appropriation approaches that level of commitment.

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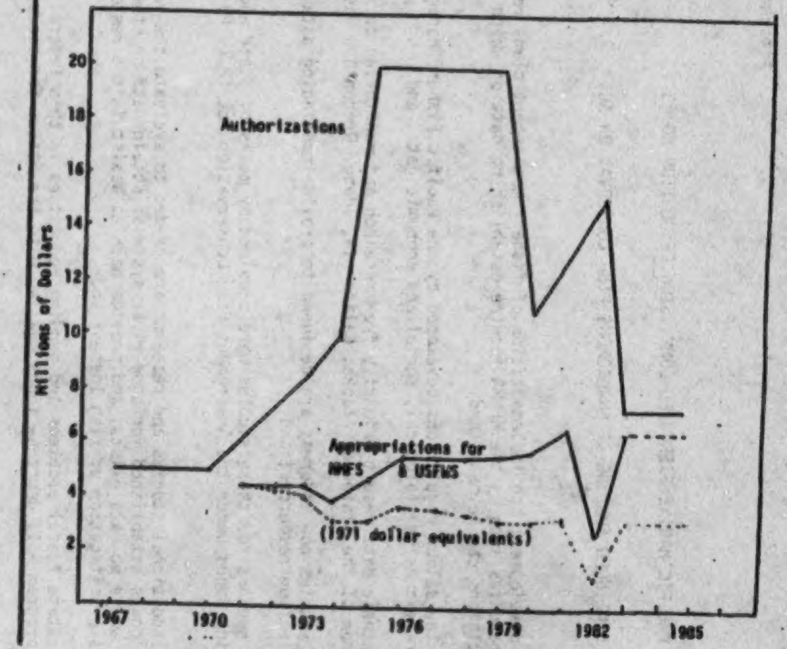
[1] Appropriations for general Anadromous Fish Conservation Act purposes (Sec. 4a). Special striped bass (Chafee amendment) funds are not included in this summary.

AUTHORIZATIONS AND APPROPRIATIONS for the ANADROMOUS FISH CONSERVATION ACT (P.L. 89-304)



NOTES: Upper solid line represents authorizations 1967-1985. Solid line for appropriations represents amounts provided 1971-1983 (Chafee Amendment funds not included) for NMFS and USFWS combined. 1971 dollar equivalents of these annual appropriations are represented by lower broken line.

Senator **Specter**. We have one final witness on panel III, Dr. Robert Larson, president of WITF Public Television. from Harrisburg, representing the National Association of Public Television Stations.

Welcome, Dr. Larson. We appreciate your being here. My suggestion would be that you start. I am going to have to depart in just 3 minutes if I am going to make that vote, and I would be glad to hear from you at greater length when I return.

NATIONAL ASSOCIATION OF PUBLIC TELEVISION STATIONS

STATEMENT OF DR. ROBERT LARSON, PRESIDENT, WITF PUBLIC TELEVISION, HARRISBURG, PA., REPRESENTING THE NATIONAL ASSOCIATION OF PUBLIC TELEVISION STATIONS

FUNDING FOR PUBLIC TELECOMMUNICATIONS FACILITIES

Mr. **Larson**. Thank you, Senator Specter. I am here representing, as you noted, the National Association of Public Television Stations. We are testifying on behalf of funds for the public telecommunications facilities program for fiscal year 1984.

PTFP has authorized $12 million this year, with the authorization down 20 percent from last year's $15 million. We ask you to appropriate the full $12 million authorized. That basically is our request.

The eye of the request is related to what public television does with these funds. I intend to let you know that the job is not done with public broadcasting. Indeed, if we are to survive, we must continue to serve, and if we can serve effectively, we must be supported with the kind of moneys that we are asking for, for the kind of projects that I am going to tell you about.

Senator **Specter**. How much of the money or the money that you spend is provided by congressional appropriation?

Mr. **Larson**. In terms of this particular program, the match is roughly 60 to 40 with the 40 percent coming from local constituencies and 60 percent, that has been the average over the past several years.

Senator **Specter**. When you talk about public television, is it something that Congress has more of, an understanding of, than some of the items of the agenda?

The committee has had the opportunities to be, as I have, to be at a station, and we see you all the time. I do want to hear more. We have a tight time limit. I am going to have to go vote. I am not sure precisely what will happen on my amendment, but I will either return in 10 minutes or send word back.

Mr. **Larson**. All right.

Senator **Specter**. OK.

[Brief recess.]

Senator **Specter**. We shall reconvene now.

The vote is on a cloture issue, which is not a substantive issue. So we have some more time. How much, I do not know.

Mr. Larson, you have the floor.

Mr. **Larson**. Thank you.

I was in the process of telling you what we would do with the funds by illustrating with WITF.

Senator **Specter**. You say you have a 60–40 split, 60 percent provided by the $12 million that you want?

Mr. **Larson**. By the Federal Government, that $12 million would be matched by the proportionate share coming from local institutions across the country, local individual stations who have applied for these funds and who would apply for these funds.

In our case, for example, under——

Senator **Specter**. It is a great deal more than $12 million.

Mr. **Larson**. It costs more than the $12 million, precisely. It is matched on almost a 60–40 basis as I indicated.

We at WITF have embarked on a project which I think represents what can be done with such facilities funds. We are not talking about maintaining the system, because we look to our community to support the maintenance of the system.

But we are talking about developing new modes of service. What I would like to describe to you very briefly is what we have come to call community network. This is a series of four channels of delivery on a point-to-point basis that would be constructed within our 50-mile radius to serve 11 counties. With this interconnection or network, as we call it, we would hope to give access to community groups such as Hispanic centers; hospitals; human services agencies, who could communicate with one another through these four channels of delivery system; it is basically a television delivery system without the necessity of interrupting the service of our general public broadcasting radio and television service.

Senator **Specter**. How would that work? You are saying that you would have a mechanism where Hispanic communities could communicate with whom?

Mr. **Larson**. They would communicate with other Hispanic centers. They would communicate with, say, the Hispanic centers in New York, Harrisburg, and Lancaster would communicate with one another, or they could have programs in the Spanish language directed from us.

Senator **Specter**. You serve 11 counties?

Mr. **Larson**. We serve 11 counties.

Senator **Specter**. What is the public broadcasting company north of you?

Mr. **Larson**. It serves roughly the same——

Senator **Specter**. Where is it located?

Mr. **Larson**. In Scranton, the Allentown station area, WPSX, as you know, and Philadelphia and Pittsburgh comprise the network.

Allentown is directed to the north of us, but we serve 11 counties.

In some cases, the signals do overlap into one another. But to talk about the community network that we would utilize these funds for——

Senator **Specter**. Allentown serves the northern tier of Pennsylvania?

Mr. **Larson**. Well, Allentown serves the—it is somewhere; it is northeast of Harrisburg.

Senator **Specter**. That is north, slightly and mostly east.

Mr. **Larson**. I don't have exactly a map showing the coverage area involving the seven stations.

Senator **Specter**. What serves the northern tier?

What channel serves the northern tier?

Mr. **Larson**. It would be a combination of Allentown—do you mean the whole northern tier of the State? WPSX; I don't suppose the State college would serve that far.

But to get back to the community network which represents in our mind a third way of public broadcasting, if the first wave was ITV and the second wave was our general public broadcasting, the third wave is represented by instructional fixed television service which is a point-to-point communication which we are allowing for along with other PBS stations, which would enable other people to communicate with one another and give access to minorities and other special interest groups which primarily and previously have not had access to the general television system. We think that public broadcasting really has a special mission to serve special interest and minority groups.

We would proceed with this in the paper that is described as a matter of record of serving many kinds of agencies without utilizing the broadcast spectrum.

This is what, I think, is innovative, and it makes possible the initiatives like this, the kind of funding that we are requesting to serve people who have not formerly been served.

Probably commercial broadcasting interests will not be served in this fashion, because we are talking about a narrow cast, fixed point-to-point, interconnection network service for the kinds of agencies who have something to say to one another and who would benefit from the expertise, the public broadcasters, in assisting them to convey this message.

For that reason, there are many other similar projects which are being considered currently by the program. We would urge your support of this $12 million.

Senator **Specter**. Dr. Larson, one final question: That is, illustratively, for your station, how much of the $12 million which you have requested would be going to WITF?

Mr. **Larson**. We have an $800,000 proposal which is currently being considered, and we would request $600,000, with $200,000 coming from the community. That is a 75–25 match.

Senator **Specter**. All right. You want $600,000 in Federal money; $200,000 from the community?

Mr. **Larson**. That is correct.

Senator **Specter**. What is the total funding for your station?

Mr. **Larson**. It is $3 million—we have a $3 million annual operating budget.

Senator **Specter**. $3 million, and where does that money come from?

Mr. **Larson**. That comes, one-third from the community, over $1 million; roughly one-third from a combination of Federal and State sources, and one-third from activities such as fundraising action activities and programing grants and contracts which we, ourselves, initiate in order to serve our public.

Senator **Specter**. I speak for myself, but I think many of my colleagues would agree with the tremendous service that public television does in this country. We are well aware of your contribution, and I know your request will get very serious consideration from the subcommittee.

Mr. LARSON. Thank you, Senator.

Senator SPECTER. You are welcome.

[The prepared statement of Robert F. Larson follows:]

PREPARED STATEMENT OF ROBERT F. LARSON

PRESIDENT AND GENERAL MANAGER

WITF-TV/FM, HARRISBURG, PA.

Hello, I'm Bob Larson, and I'm President and General Manager of WITF-TV/FM, Harrisburg, public broadcasting for southcentral Pennsylvania. I would like to underline the importance of funds for the Public Telecommunications Facilities Program by telling you about our station's involvement in a community service adventure we believe has enormous potential for improving the quality of life in southcentral Pennsylvania.

WITF has embarked on a far-reaching program that will integrate modern broadcast and narrowcast technologies in a community network. This community network, or COM/NET as we like to call it, would make it possible for people in separate locations throughout our 11-county service area to interact electronically for purposes of education, information sharing, and discussion of common interests, concerns, and needs. Using two-way audio and video, people would share their ideas, air their concerns, and plan strategies for resolving problems.

The primary technological component of COM/NET, its main distribution system, would consist of four ITFS television channels narrowcast from transmitters near each of the urban centers in the region. ITFS would provide a vehicle for television transmission from an originating site to viewing centers throughout the urban area, and because ITFS antennas are capable of returning an audio signal to the transmitter, people at the viewing centers could interact with teachers and discussion leaders at the point of origin. Add to this the two-way connective capacity of microwave, the possibility of tying into cable systems, and the localized home-receivable capacity of low-power television, and what emerges is a thoroughly flexible narrowcasting network with infinite potential for meeting the needs of every population segment, a communications franchise for groups of people whose specialized needs and interests cannot be served adequately by broadcasting.

Let me cite a few examples of the kinds of things COM/NET could do. 1. Course sharing between colleges. A course offered at one college could be made available to students at all interconnected institutions and these students in remote classrooms could pose questions and interact with the teacher just as well as students at the originating institution. 2. In-service teacher training. A new method of teaching composition could be introduced by a writing specialist to teachers of specific grades throughout the region. Videotaped materials, interaction with a group of representative students, and questions and answers involving all participants could be incorporated into an intensive learning experience. 3. Senior citizen services. Health and Welfare officials could provide information on programs for the elderly to people gathered at viewing centers and possibly even to viewers at home. Questions could be directed to the officials by a return audio or video signal, or by telephone. 4. Human service organizations. Red Cross chapters, hispanic centers, crisis intervention call-in services, and other human service organizations in one city could communicate face to face with organizational counterparts in another location to share information and to coordinate a regional strategy. These are random illustrations of what COM/NET could do. The possibilities are limited only by our imagination, our concern for community service, and our determination to work together.

Membership in COM/NET would be open to educational, health, social service, governmental, civic, cultural, and other non-profit groups. Payment of an annual membership fee would formalize the relationship and establish access to COM/NET services at special member rates. In order to encourage membership among a broad range of organizations, fees and rates would be kept as low as possible.

It is contemplated that COM/NET facilities would also be made available to commercial-industrial institutions at rates considerably higher than those charged public service clients. In this fashion, commercial utilization of COM/NET might subsidize the community network somewhat and help to hold the rates down for less affluent non-commercial users. After COM/NET has leaped the initial hurdle of start-up expenses, it should be able to operate as a self-supporting institution.

WITF has emerged as a leader in the development of COM/NET and the prerequisite partnership with community organizations. CPB has supported this process because they are looking for us to establish the kind of narrowcasting service that would serve as a model for stations all around the country. Obviously, our particular version of COM/NET would not be replicable in every detail because it is designed to serve a region which has four or five distinct urban areas separated by the kind of rolling terrain that is characteristic of Pennsylvania. But in terms of basic philosophy, the working relationships, and the application of technology to community service, we are showing the way for others to follow.

It is no accident that COM/NET is being pioneered in southcentral Pennsylvania. We think it is a logical extension of the kind of service we have always attempted to provide for our people. At WITF we have a written document that describes our mission and the first sentence goes like this: "The mission of WITF is to be a communications center for the people of southcentral Pennsylvania, a regional facility to enhance our quality of life, to help us listen and speak to one another, and to bring us closer together in understanding and purpose." That statement summarizes what we have been attempting to do as broadcasters. It is also a perfect rationale for COM/NET.

Public broadcasting was instituted expressly to serve minorities--groups of people who, because of peculiar needs and tastes, their racial or ethnic background, age or sex, could not have their specific needs attended to by commercial television, which is forced by its very nature to seek mass audiences. COM/NET opens the door to a new arena of service to minorities, service that is more specific and direct than anything even public broadcasting could attempt. COM/NET is very different from public broadcasting in the nature of the services it offers, but in serving minorities it is true to the original and fundamental goals of public broadcasting.

COM/NET may not be the realization of Marshall McLuhan's "global village," but it is a bold move in the direction of a regional village. It is humanized, democratized technology--television no longer the exclusive property of professionals, but a resource at the disposal of the people.

COM/NET might well be the third wave of non-commercial broadcasting. In this analysis, ETV was the first wave, public broadcasting with its highly produced educational, cultural, and public affairs programming the second wave, and now public service narrowcasting the third. Just as public broadcasting has not totally supplanted educational television, public service narrowcasting is not intended to replace broadcasting. In fact, a working partnership is the ultimate goal. Responding to an ascertained social problem like teen-age drug and alcohol abuse, for example, public broadcasting could provide general information while COM/NET fulfilled the specific training and interactive needs of affected groups.

Coordinated with a unified vision and commitment, these two parallel activities, public broadcasting and public service narrowcasting, have great potential for mutually enhancing effectiveness.

AR

File No. 3142COB, Bella Vista Community TV Assoc., 16 Mellor Lane, Bella Vista, AR 72712. Signed by: Calvin W. Heintz, President. Funds Requested: 129027. Total Project Cost: 129027. To establish a cable access center which will permit first local programming to the villages of Bella Vista. Facility will benefit approximately 3,000 residents of village. An additional 200 homes are joining cable system each year.

File No. 3014CRB, Cave City Public Schools, P. O. Box 125, Cave City, AR 72521. Signed by: William P. Sullens, . Funds Requested: 50000. Total Project Cost: 50000. To expand radio station KZIG-FM in Cave City by increasing power. Station presently at 3.5 KW and proposes to increase to 100 KW. Station used as training facility for selected high school students.

File No. 3238CRB, Arkansas Broadcasting Foundation, 1501 Arch Street, Little Rock, AR 72202. Signed by: Pat House, President. Funds Requested: 32624. Total Project Cost: 43499. To acquire origination equipment, satellite reception equipment and test equipment to assist in the activation of KABF-FM in Little Rock, AR. Station will benefit 608,000 citizens in Little Rock area.

File No. 3334CTB, Newark Public Schools, P. O. Box 280 Fourth College, Newark, AR 72562. Signed by: Bobby R. DePoyster, Superintendent. Funds Requested: 175000. Total Project Cost: 250000. To construct a low power TV station in Newark on Channel 17. Station would provide first local origination broadcast service for area.

File No. 3348CRB, Newark Public Schools, P. O. Box 280, Newark, AR 72562. Signed by: Bobby R. Depoyster, Superintendent. Funds Requested: 150000. Total Project Cost: 201900. To activate a noncommercial FM radio station on 90.9 MHZ in Newark. Station will serve 51,000 people. Facility will be utilized as a training facility for students and staff of the school district.

AZ

File No. 3336CTB, Case Grande Union High School, 420 E. Florence Blvd., Case Grande, AZ 85222. Signed by: Alex N. Nader, Superintendent. Funds Requested: 139544. Total Project Cost: 241406. Request is to fund TV transmitter, antenna, monitors and time base corrector to provide over the air free TV evening programs to a majority of the population that cannot afford cable access, also to develop job skills in telecommunications.

File No. 3226CTB, Arizona State Univ/Bd of Regents, , Tempe, AZ 85287. Signed by: H. B. Hunnicutt, Asst. VP for Research. Funds Requested: 1470000. Total Project Cost: 1960000. To replace obsolete and worn out production equipment at Arizona's primary public television station, KAET-TV.

File No. 3227CTB, Navajo Community College, , Tsaile, AZ 86556.

Signed by: Dean C. Jackson, President. Funds Requested: 508429. Total Project Cost: 677905. To establish first service television to the Arizona and New Maxico Navajo Nation, utilizing low power and translator dissemination equipment, and including first local origination capability.

File No. 3144CTB, University of Arizona Bd Regents, , Tucson, AZ 85721. Signed by: Sherwood E. Carr, Contracting Officer. Funds Requested: 479377. Total Project Cost: 639169. Request is for funds to replace obsolete studio cameras and video tape machines with state-of-the-art equipment.

File No. 3355PTB, Silvercloud Video Productions, 1321 E. King Road, Tucson, AZ 85719. Signed by: John Howard Crouch, President. Funds Requested: 38771. Total Project Cost: 38771. To plan for the extensive use of a mobile television production facility to provide locally-originated programming, especially for and about Arizona's native American tribes. Project would focus on servicing those areas where first local origination is not currently experienced.

File No. 3100CTN, Connecticut Educ. T/C Corp., 24 Summit Street, Hartfoed, CT 06106. Signed by: Paul K. Taff, President & General Manager. Funds Requested: 401498. Total Project Cost: 535330. To activate a statewide ITFS system, as adjunct to CT Educational Telecommunications Corp. and in conjunction with the CT Regional Community College System that will provide instructional services.

File No. 3101CRB, Connecticut Educ T/C Corp, 24 Summit Street, Hartfoed, CT 06106. Signed by: Paul K. Taff, President & General Manager. Funds Requested: 144524. Total Project Cost: 196815. To modify and move the transmitter of WPBH, a noncommercial FM radio station operating on Channel 213B and presently serving Hartford, CT, to increase power and provide first local service to western CT including Danbury. Also includes request for mobile unit for local program production.

File No. 3047PTN, Cmty Renewal Team of Gr Hartford, 3580 Main Street, Hartford, CT 06120. Signed by: James E. Walker, Acting Executive Directr. Funds Requested: 106271. Total Project Cost: 141271. To plan for a community access center programming via cable and serving Hartford and surrounding communities.

File No. 3099CTB, Connecticut Educ T/C Corp., 24 Summit Street, Hartford, CT 06106. Signed by: Paul K. Jaff, President & General Manager. Funds Requested: 262009. Total Project Cost: 350000. To augment capacity for local TV production of Connecticut ETV with mobile equipment which would be used in Bridgeport, New Haven & Norwich.

File No. 3203PTN, City of New Britain, P. O. Box 512, New Britain, CT 06051. Signed by: William J. McNamara, Mayor. Funds Requested: 15000. Total Project Cost: 20000. To conduct comprehensive planning for a regional facility that will utilize cable public access channels in five cities including and around New Britain, Connecticut.

File No. 3331PTB, S.W. Missouri State University, , Springfield, MO 65802. Signed by: Dr. Duane Meyer, President. Funds Requested: 25300. Total Project Cost: 58489. To plan an alternate means of delivering instructional and cultural courses and other offerings to southwest Missouri.

File No. 3153CTB, Double Helix Corp., 2601 N. 11th Street, St. Louis, MO 63106. Signed by: Robert Cohn, President Board of Directors. Funds Requested: 458891. Total Project Cost: 669940. To activate a public TV station operating on Channel 40 in St. Louis which will provide an alternate program service for 1.3 million persons in the St. Louis area.

NH

File No. 3118CRB, Granite State Public Radio, Inc., 26 Pleasant Street, Concord, NH 03301. Signed by: Keith Thompson, Clerk. Funds Requested: 7762. Total Project Cost: 10350. To extend the signal of public radio station WEUD-FM of Concord, NH to the unserved Nashua County area of New Hampshire via translator.

File No. 3297CTB, University of New Hampshire, Pettee Brook Lane, Durham, NH 03824. Signed by: Lennard A. Fisk, Director of Research. Funds Requested: 278685. Total Project Cost: 371580. To replace and increase power of WLED, Channel 49, serving Littleton, New Hampshire, and to replace obsolete microwave distribution system for New Hampshire Public TV system.

NV

File No. 3321PRTB, Rural Television System, Inc., P. O. Box 8856, Reno, NV 89507. Signed by: Daniel J. Tone, . Funds Requested: 328000. Total Project Cost: 328000. To plan for the establishment of first service public broadcasting in unserved rural areas of the western United States, including, but not only California, Nevada, Montana, Wyoming, and Minnesota. Project proposes to approach at least 40 rural communities.

File No. 3341CTB, Channel 5 Public Brdcstg, Inc., P. O. Box 8856, Reno, NV 89507. Signed by: Jim Pagliarin, Station Manager. Funds Requested: 333900. Total Project Cost: 445200. To provide additional local origination equipment for Channel 5 Reno, Nevada. To also construct a translator station which will rebroadcast the signal of primary public TV station Channel 5 into Carson City, Nevada.

NY

File No. 3160CRB, Genesee Community College, 1 College Road, Batavia, NY 14020. Signed by: Chuck Platt, Associate Professor. Funds Requested: 22500. Total Project Cost: 30000. To construct an FM radio station operating at 90.7 MHZ with a power of 534 watts to provide local program service to the community with accent on student training.

File No. 3174CRB, Oregon Comm on Pub Broadcasting, 2828 SW Front Avenue, Portland, OR 97201. Signed by: Gerard L. Appy, Executive

Director. Funds Requested: 183000. Total Project Cost: 260000. To upgrade and extend the signal of KOAP-FM, operating on 91.5 MHZ in Portland by replacing its transmitter and moving its antenna to a new tall tower (to be shared by KOAP-TV and other entities) which is being constructed at an antenna farm. This project will permit 300,000 additional persons to receive Oregon's flagship public radio station for the first time.

File No. 3093CTB, Metro. Pittsburgh Pub Brdctg Inc, 4802 Fifth Avenue, Pittsburgh, PA 15213. Signed by: Henry Enright, Assistant to the President. Funds Requested: 113010. Total Project Cost: 150680. To extend by translator the signal of public TV station WQED-TV, serving Pittsburgh, to the unserved area of Somerset, Pennsylvania.

File No. 3111CRB, Metro Pittsburgh Pub Brdcstg, 4802 Fifth Avenue, Pittsburgh, PA 15213. Signed by: Henry E. Enright, Assistant to the President. Funds Requested: 278614. Total Project Cost: 371752. To replace obsolete studio equipment at WQED-FM in Pittsburgh and to acquire a mobile unit for coverage of community events.

File No. 3141CTB, Metro. Pittsburgh Pub Brdcstg, 4802 Fifth Avenue, Pittsburgh, PA 15213. Signed by: Henry Enright, Assistant to the President. Funds Requested: 597236. Total Project Cost: 797315. To replace and increase power of WQEX-TV's transmitter in Pittsburgh. Programming will be expanded to provide additional services to the community including instructional courses for credit, closed captioning for the deaf, and financial and economic information services.

File No. 3273CRB, Pittsburgh Comm. Brdcstg. Corp., 4 Cable Place, Pittsburgh, PA 15213. Signed by: Raymond Christman, President. Funds Requested: 63990. Total Project Cost: 85320. To implement power increase and to replace obsolete studio equipment.

File No. 3168CRB, Northeastern PA Educ TV Assoc, Old Boston Road, Pittston, PA 18640. Signed by: Dr. John E. Walsh, President & General Manager. Funds Requested: 6178. Total Project Cost: 8238. To extend via translators the signal of public radio station WUIA-FM, currently serving the Pittston area, to the unserved community of Allentown, Pennsylvania.

File No. 3259CTB, Northeastern PA Educ TV Assoc., Old Boston Road, Pittston, PA 18640. Signed by: John E. Walsh, President & General Manager. Funds Requested: 111317. Total Project Cost: 148423. To activate a regional narrowcast distribution network using ITFS to provide instructional, educational, and informational programming to the Scranton-Wilkes Barre, Pennsylvania area.

File No. 3332CTN, Borough of Pottstown, 241 King Street, Pottstown, PA 19464. Signed by: Edmund Skarbek, President. Funds Requested: 81187. Total Project Cost: 108250. To activate a noncommercial public cable television channel to serve the Borough of Pottstown.

File No. 3289CTB, Pennsylvania State University, Wagner Annex, University Park, PA 16802. Signed by: Robert J. Scannell, VP, Dean Commonwealth Educ Syst.. Funds Requested: 113010. Total Project Cost: 150680. To extend via translators, the signal of public television station WPSX-TV to Bedford and Fulton Counties in Pennsylvania.

PREPARED STATEMENT

NATIONAL ASSOCIATION OF PUBLIC TELEVISION STATIONS

The National Association of Public Television Stations is a membership organization representing the interests of the nation's public television licensees in the areas of planning, research, and legislation.

We testify here for funds for the Public Telecommunications Facilities Program (PTFP). For FY1984, PTFP is authorized at $12 million. This program has had a very successful track record, but apparently "nothing fails like success" because the Administration is asking no funds for FY1984. This Administration also asked no funds for FY1982 and for FY1983. But in each instance the Congress restored a reasonable level of funds.

This year, with the authorization itself down 20% from last year's $15 million, we ask you to appropriate the full $12 million authorized. (Should this authorization be restored to $15 million--the FY1983 level--as has been proposed by the House Energy and Commerce Committee to the Budget Committee, we would recommend that the full $15 million be appropriated.)

In fiscal 1982, the PTFP leveraged about $18 million in local funds to match $18 million in federal grants for public telecommunications facilities construction and replacement. Only basic essential facilities are supported by this program. The public television industry could not function without them. Studios, transmitters, cameras, film projectors, tape recorders, and video switchers are the viscera without which programming creativity cannot be realized. The talent of a Beverly Sills, a Jim Lehrer, or even a Big Bird goes for nought if stations haven't the equipment to capture it and deliver it in a clear signal to the homes and classrooms.

Public television stations need help in meeting their equipment needs because they, for the most part, are small, non-profit organizations with no working capital. Out of necessity, they devote most of their scarce funds to creating, buying and delivering programs--the "bottom line" for any public television station.

The financial pressures--exacerbated by sharp cuts in federal operating funds and the economic recession--leaves little or no room in our stations' budgets for capital acquisition or depreciation. Since its inception, the facilities program has helped stations finance basic equipment by providing funds that match local initiatives to start or improve public television service. These matching funds have become a powerful local incentive and one of the best tools public stations have going for them. At a time when federal support for the Corporation for Public Broadcasting and other federal programs (such as the National Endowments for the Arts and Humanities) is dwindling, the facilities program must be retained.

We are pleased that the Congress opened the way in the 1981 authorizing legislation for public television stations to allow some outside revenue-producing use of facilities funded by PTFP. In these times of serious funding cutbacks at the stations, this helps. However, at present the funds resulting from these activities are minor and do not begin to replace the cuts in CPB and PTFP federal funds.

We are also pleased that NTIA has submitted to the Congress a 5-year plan as was mandated in 1978 in the Public Telecommunications Facilities Act. This is the first such report filed. However, the NTIA Report concludes that the PTFP mission is "fulfilled." Figures cited indicate that, technically, 92% of the nation now receives PTV signals, and 75% receives public radio signals, and that when current projects are completed, the figures will rise to 94% completed for TV, 80% for radio. But that still leaves 15-25 million Americans without public broadcasting service. The Congress established this program so it would reach all Americans.

The Report also says that various forms of new technologies will fill the urban and rural gaps in coverage not yet provided by public television transmitters. If these technologies--cable, direct-to-home satellite services, ITFS, low-power TV, videodiscs and tapes--are available and do offer the kinds of educational and public service programs public television stations offer over-the-air--so much the better. But these kinds of programs are not yet provided via these other systems. Cable itself is still not yet widely available (its coverage of the U.S. stands at 35%). Few cable systems provide any local programs; and, such services are not available to those who cannot afford their considerable cost. In short, they are no substitute now or for the next 5-10 years for the reliable broadly-available service public television offers. Further, looking ahead, public TV stations will be using these alternative technologies to provide public television services; but there will be equipment needs to link up with these other systems--equipment needs which should be met by PTFP.

Facilities Needs

Television equipment needs today fall into three main categories--replacement, improvement, and extension of service.

Replacement

Most television equipment has a relatively short useful life. For example, studio cameras last an average of eight years, tape recorders about nine-and-a-half. The transmitters that send forth public television signals die at about age sixteen.

According to figures worked out by NTIA, public television's entire stock of basic equipment of this sort is wearing out at the rate of more than $40 million per year--an amount equal to about eight percent of public television's total annual income. Our stations, if they had the money, would need to invest this much each year simply to maintain equipment at its current level of performance. We cannot over-emphasize the importance of keeping up with station equipment needs. Worn-out equipment means that the services Congress supports with operating funds simply cannot be performed. We strongly recommend that PTFP continue to reserve some of its funds for such purposes, despite the Administration's desire to provide funds only for coverage-extension, regardless of the consequences.

Improvement

Beyond this $40 million requirement for replacement of tiring equipment, our stations have a lot of catching up to do to achieve parity in home reception with commercial stations. According to a study by the Corporation for Public Broadcasting, it would take an investment of $66 million for public television stations to purchase production facilities comparable to those of the commercial stations in their areas.

Extension

Most importantly, a clear public television signal is still not available to substantial numbers of American taxpayers. In 1978, the Senate's report on the Public Telecommunications Financing Act noted that:

> "...while over 80 percent of the American population falls within the coverage area of public television, only 50 percent receive an acceptable quality signal. Since all taxpayers support public broadcasting, it is imperative that service to unserved or underserved populations be substantially increased." (emphasis added)

Although coverage has improved since 1978, millions of Americans remain unserved or underserved by public television. Our stations' disproportionate dependence upon UHF transmission--channels 14 to 69--is a significant handicap that creates reception problems in many communities theoretically "covered" by a public television signal. A Harris poll conducted for the Federal Communications Commission revealed that, where engineering studies predict that most or all area households are reached by both UHF and VHF stations, only 49 percent of the homes can actually receive a good or excellent UHF signal, while 91 percent enjoy good-to-excellent VHF reception. Thus, the American public's practical experience with UHF signals contradicts the theoretical projections of the engineers. Since 60 percent of public television signals are UHF, it follows that NTIA's estimate of public television coverage overstates reality--poor UHF signal quality is not taken into account. Thus, new transmitters, translators, and improvements in existing UHF signals are needed to bring an adequate public television picture to as much as one-quarter of all Americans.

A final aspect of the UHF handicap also needs to be addressed. The laws of physics dictate that it takes more electric power to transmit a UHF signal to a given geographic area than to cover a comparable area with VHF. Thus, public television stations operating on UHF channels pay substantially higher energy costs than do stations transmitting via VHF. Recent advances in transmitter technology are making it possible for these UHF stations to make capital improvements that will allow them to use much less energy to transmit a technically comparable signal. However, without the PTFP facilities program, we do not know where the bulk of the funds needed for these energy-saving investments will come from.

Combining these and other needs in a thorough professional analysis, NTIA's own 1981 draft Long-Range Plan for Public Telecommunications Facilities recommended a minimum annual facilities program appropriation of $40 million.

In FY1982, 360 public telecommunications entities submitted applications for over $89 million from the program. Only $18 million was available, and only 119 applications were funded. For FY1983, 355 applications have been received, asking for over $82 million but now only $15 million is appropriated. Thus, both the need and the demand for facilities funds have far outstripped the dollars available. We anticipate an exacerbated funding shortfall in FY1984, with only $12 million available.

(Attached are examples of current pending 1983 applications from areas of this Subcommittee's members.)

Relation to Public Needs

Every grant issued by the Public Telecommunications Facilities Program is a response to a local initiative for new or better public broadcasting service.

The demand for this service is both strong and growing. Public television has never been held in higher esteem by the American people. During the past year, we've received scores of major national awards for programming excellence. This January, 46 million American families tuned in to public television during a single week. More than 650,000 families voluntarily pledged contributions to their local station during the month of March alone. Thus, television continues to receive strong cultural acclaim and citizen support.

The families who use public television are a broad cross-section of America, representing every income and education level. In fact, the public television audience closely reflects the make-up of the American population in each demographic category. For them, is the pre-eminent source of high-quality educational, informational and cultural programming. The facilities program helps make its services a reality.

Conclusion

The abandonment of the NTIA facilities program at this juncture would deny an adequate public television signal to millions of taxpaying citizens who want it. It would lead, slowly but inevitably, to a steady erosion of the facilities infrastructure upon which public stations, and the people themselves, have come to rely.

In a time of economic uncertainty we understand the need for economies. However, most of the Administration's budget cuts have been directed at slowing the growth of federal programs, or reducing some portion of current expenditures. On the other hand, the recommendation that the facilities program be totally erased, this year and beyond, is an extreme version of this general trend. The consequences of total elimination of or sharp reductions in the program would be severe. We ask that you appropriate the full $12 million for fiscal 1984. The funds appropriated to the PTFP can go a long way toward meeting the basic equipment needs of public television, enabling us to extend our reach and continue providing excellent television service to the American people.

Senator SPECTER. Now we will turn to panel IV to Mr. Frederick Goss, executive director of Newsletter Association of America; Mr. John Bolsteins, cochairman of the Committee on International Broadcasting for the Freedom Federation; and Mr. Denison Ray, member of the executive committee of the Project Advisory Group.

If you gentlemen would step forward, we would be pleased to hear from you at this time.

PROJECT ADVISORY GROUP

STATEMENT OF DENISON RAY, MEMBER, EXECUTIVE COMMITTEE, PROJECT ADVISORY GROUP

LEGAL REPRESENTATION FOR NATION'S POOR

Senator SPECTER. Mr. Ray, we will begin with you on the Legal Services Corporation. Your full statement, gentlemen, will be made a part of the record. If you would summarize, we would be most grateful.

We don't know when those bells will go on again.

Mr. RAY. Thank you, Mr. Chairman. I will give you the 5-sentence testimony rather than the 25 sentence.

Senator SPECTER. Sold.

Mr. RAY. I would be remiss, though, if I didn't thank you on behalf of the field programs if I didn't thank you for your continued support and strong support of Legal Services. There are about 45 million eligible clients for Legal Services' programs today. We have prospective, governmentally defined poor of about 30 million, not quite one lawyer for every 10,000 poor persons across the country.

Your own State has slightly under one. If we are looking at the eligible population, we have about two-thirds of our lawyers representing poor persons. You will remember that Congress established and supported for 5 years a goal of bringing Legal Services up to two lawyers for every 10,000 poor persons contrasted with the private bar which has about 28 for every 10,000 nonpoor people.

We would like to get back to that goal. We ask the Congress this year to make a commitment to return to that goal by adopting an appropriation of $296 million which won't accomplish the goal at all in one fell swoop.

What it will do is to explore the cost-of-living increases that we never got from 1981, 1982, or 1983. It was project, by the way, from the administration——

Senator SPECTER. The Corporation is requesting $257 million?

Mr. RAY. Yes.

Senator SPECTER. Which is an increase over $241 million for fiscal year 1983. Do you know how that was computed?

Mr. RAY. Yes.

Senator SPECTER. How?

Mr. RAY. It is about a 6½-percent increase based on a mid-1982 estimate by OMB of the inflation rate for 1983.

Senator SPECTER. I see the administration has zeroed it out again.

Mr. RAY. Yes; that sounds approximately right. We are finding not only that our resources are tighter than a drumhead generally, but the new poor are put under restraint. They bring many different kinds of problems that we haven't been experiencing before: Mortgage foreclosures, for example, and small farms are being wiped off the face of the Earth because FHMA won't loan the money; then they turn around and foreclose on the farmers.

We are having to put clients literally on the street because public housing waiting lists are 79 years long. The new poor maybe a year ago were living decently, but today are without a home and living in abandoned automobiles.

These all present legal problems. We believe that if the rhetoric of equal justice is going to have anything behind it, that it is not unreasonable to expect a rather minimal commitment to two attorneys for every 10,000 poor persons.

That is what we are asking.

[The prepared statement of Denison Ray follows:]

PREPARED STATEMENT OF DENISON RAY
MEMBER, EXECUTIVE COMMITTEE
PROJECT ADVISORY GROUP

PAG'S '84 BUDGET REQUEST FOR LSC

A. Introduction

On behalf of the field programs in the United States, the Project Advisory Group requests a Congressional appropriation for the Legal Services Corporation for FY 1984 of $296 million. Sharply cut in 1982, recipients of stagnant funding in 1983, the Legal Services field programs critically need the $296 million to catch up with inflationary increases in 1981-83 as the first step back to attainment of the goal of two attorneys per 10,000 poor persons which Congress, the field and LSC had sought and nearly achieved in the years 1976-1980.

That goal of two attorneys per 10,000 poor persons, commonly known as minimum-access, can provide the stable nucleus of funds which Legal Services requires in order to assure meaningful access of poor people to our legal system. It represents the commitment of Congress to the principle of Equal Justice Under Law. But mostly what that goal represents is people who are hurting and in trouble and who need the help that, at certain times, only a lawyer can provide. Concepts such as "minimum access," "legal needs," "field programs" and "pro bono" are only means for achieving what the abstraction of "Equal Justice" is all about--the righting of wrongs and the prevention of injury to those Americans who are suffering at the hands of others who purport to act in the name of the law.

The national Legal Services program was conceived by Congress in 1964. It has survived and even, sometimes, grown stronger because Congress has had the will to persevere despite the enmity and political attacks of those whose interests and practices are threatened by the enforcement of the legal rights of the poor. But you have wrought a program of which you can be proud. The Legal Services program is professional, of high quality and, most important of all, effective.

Legal Services is that rare "commodity"--an idea magnificent in conception which has actually worked well in practice. But Legal Services has fallen on hard times. In 1975 at the very first hearing of the House Appropriations Sub-committee on funding for LSC, representatives of the Corporation described conditions of its newly inherited program as "close to collapse" due to several years of frozen funding. Today finds the worst conditions in Legal Services since those dark days of 1975.

Unfortunately, today we do not find the representatives of the Legal Services Corporation coming before you to portray the adverse conditions of 1983 and to seek significant relief. The LSC of today appears uninformed about its own circumstances or, worse, uncaring. It perceives a relatively low level of increased need. It misrepresents the facts to you, perhaps because of the loss of virtually all of its experienced, integrated professional staff who have been replaced under questionable selection practices by persons without experience in the practice of Legal Services law. Today's LSC chooses to invest its energy in establishing an Office of Inspector General to investigate and impose sanctions on field programs instead of creating a communications network to meet the great need for a sharing and exchange of ideas on how to most effectively deliver services to low-income people.*

In the absence of a strong voice of the Corporation, we hope you will listen to the field programs who, along with our client community, are the other partners with the Congress in this struggle of many years to make Equal Justice a reality.

In the remainder of this document we shall:

--Describe the unmet need of the field and of the clients we serve.

--Analyze the goal of minimum access and its relevance to our request for $296 million.

--Examine alternative resources such as the private Bar.

--Seek continued protection by Congress of the essential heart of the national Legal Services program from erosion and elimination from within the Legal Services Corporation.

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*The field welcomes fair, objective investigations of complaints. We believe that misapprehensions about our work can be laid to rest in that way. Whether a separate OIG is necessary in lieu of GAO and LSC regional offices is debatable. Whether that Office can be fair and objective, given the present nature of LSC, is problematic.

--Urge that Congress allow Legal Services attorneys to have available the same full range of services and forums within the legal system as do private attorneys in the representation of their clients.

B. The Need of Legal Services Programs for Significantly Increased Funding

1. The Extremely Low Level of Current Per Capita Funding--Legal Services has never been funded at any realistic level of need. There are approximately 30,000,000 governmentally defined poor people in the United States according to the 1980 Census (an increase of some 700,000 from 1970). If all of the $217,000,000 in funding to field programs were used for direct client service (obviously impossible in a regulated agency) it would amount to a mere $7.23 per poor person per year, a patently inadequate sum with which to meet their legal needs. That inadequacy is compounded by a convergence of other factors:

(a) Our eligible client population (at 125% of the "poverty line") is 40,000,000 people, which reduces annual per capita funding to $5.43;

(b) Various surveys of the legal needs of the poor reveal that the typical low-income family experiences from one to seven or more serious civil legal problems each and every year; and

(c) Economic hard times have substantially increased the number of low-income persons since the 1980 Census. Findings of the Current Population Survey suggest that there may be at least 45 million eligible clients at this time.

In the face of such a magnitude of need, field programs currently receive only enough funds each year to provide each eligible client with the equivalent in Legal Services of two Big Macs, a large french fry, pie and a chocolate milkshake at McDonald's.

2. The Harm of Regressive Funding Patterns for Existing Programs--We realize that appropriations for the Legal Services Corporation are subject to the sacrifices demanded of us all because of the economy. But if Equal Justice is to be a principle of value in our society rather than a token to which we pay lip service, the roller-coaster ride of Legal Services funding needs to stop, to be replaced by a recommitment to gradual growth.

Consider this startling fact. Between 1978 when all programs reached the then minimum access level of $7.00 per capita and 1983, funding for Legal Services programs to serve their existing client populations went backwards by 11.4% while, as the table on page 12 demonstrates, the cost of living increased by 54% during that same period. Thus, relative to where programs were 5 years ago, we have suffered a net financial loss of 65%. Most of the new funds appropriated for Legal Services over those years went to expansion of services--at the minimum funding level--to areas of the country not previously served at all.

Thus the pattern has seen increases from 1976 to 1981 to existing programs that were well below the actual cost-of-living increase; a dramatic reduction in funds in 1982; followed by stagnant funding in 1983 despite continued inflation. No business would be expected to sustain effectiveness under such circumstances. Yet our clients, quite rightly, expect to receive vigorous, high quality representation.

The consequence of that funding pattern has been described in some detail by the ACLU in its March 1983 report "No Justice for the Poor: How Cutbacks are Destroying Legal Services." Closed offices (373), terminated legal staff (1,773), terminated total staff (4,633), diminished operating costs and diminished support services were the inevitable result.

3. The Worsening Needs of Poor People for Legal Assistance--Yet, in the last analysis, the foregoing are but the statistics of the failure to nurture the national Legal Services program. The ultimate loss is the human toll taken of low-income people. Poor people suffer daily the loss of shelter, loss of jobs, loss of health, loss of possessions, loss of income, loss of children, loss of an education, loss of civil rights, loss of their dignity and self-respect--at the hands of people and institutions and government agencies in violation of the law.

It is not surprising that poor people are especially vulnerable to injury in our legal system. Their incomes are below the subsistence levels needed even to maintain health and well being and are obviously not sufficient to retain private counsel. Yet so much of poor people's lives are regulated by law, so much of their victimization occurs through the very legal processes which Congress and other governmental bodies have established.

National, state and local government domestic policy is expressed through law and is implemented within our legal system. Issues inevitably arise which run the gamut from the constitutionality of the law to the excessive and illegal law enforcement practices of government employees.

The Administration budget cuts in social programs, for example, have not only played havoc with the economic well-being of our client community but have raised serious legal issues. Food stamp experimental workfare programs, for instance, have been extended unilaterally in 12 states beyond the expiration date of September 30, 1981, set by Congress. For families whose income does not even permit them to subsist, that critical loss of food can cause devastating health problems and a deep-rooted sense of despair, including distrust of our system of government and law. Suit has been brought in several states by Legal Services programs challenging the legality of those workfare extensions.

4. The Unmet Demands for Service Placed on Legal Services Programs--The budget cutting of social programs affects Legal Services programs in two significant ways:

(a) It drastically increases the number of poor people which in turn places far greater demands for assistance on Legal Services. The prospect for a lessening of the demand is bleak. During the 1970's, when social insurance programs were expanded substantially, the United States did not even hold its own in reducing the number of poor people. In times of high unemployment, as now, the number of poor people has always risen dramatically; amd

(b) The stakes are higher for our clients because eligibility for public benefits is often the difference for many families between making it and not, and so the consequence of a Legal Services program rejecting an applicant because of insufficient resources is far worse than ever. Poor people expend a much larger share of their incomes on food, housing and energy than do persons with higher incomes. The prices of those items have risen more rapidly than the Consumer Price Index as a whole. Food, housing and energy are necessities of life. They are also, in the lives of poor people, regulated by law--food stamp eligibility, public housing evictions and utilities cut-offs are common legal problems for Legal Services programs.

Field programs have coped with the pincers of more poor people and worse legal problems by spreading our resources even thinner. We have given more applicants at least some advice or brief service rather than rejecting them outright; we have established private attorney referral panels; we have tried to identify cases that could, if successful, benefit many more people than just the immediate clients; we have sought even greater efficiencies of service;* During 1981, when wipeout seemed imminent and there were several hundred thousand open cases to contend with, we even tried saving our money so we would have some left over for a 1982 without the Legal Services Corporation.**

The one thing field programs have not done is to give up. But in the face of resources stretched to the breaking point and a "guerilla war" waged by the Administration to eliminate us altogether, the struggle to maintain our quality and professionalism has been very difficult indeed. Were the field to receive a major increase in funding, we would use it in the main to do the obvious. That is, we would retain and expand our legal and support staffs and keep a reasonable ratio of non-personnel costs by which the staff could operate. We would make that new staff more accessible to clients by reopening branch offices and circuit-riding posts and contracting for toll-free phone lines.

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*One comes to appreciate even more the national and state support centers which can centralize some of the research and analysis of national or statewide legal issues, thereby saving the field considerable time and effort. The LSC premise in its budget request that national and state support centers are not engaged in direct representation of clients is totally mistaken.

**The LSC budget request refers to recent investigations of its Board which disclosed a $41 million fund balance. That is not accurate. The disclosure of the fund balances was made by the LSC staff Director of the Office of Field Services to a Board committee in the Spring of 1982. The national field balance was only 13% of annual funding in any event, within the acceptable range of contingency funds needed by non-profit organizations, according to a study by Price Waterhouse, and certainly a necessity given the working assumption in 1981 that Legal Services would be eliminated.

C. The Goal of Minimum Access Should Be Attained

The need of field programs for more funding is clearly profound. This need can be met, in our judgment, by a realization of the original funding goal put forth by LSC and supported by every session of Congress from 1976 through 1980--to provide at least two lawyers for each 10,000 poor persons nationwide. That goal was called "minimum access" and that is how we shall use the term "minimum access" in this paper.

The term has come to have two other meanings:

(1) "Coverage" of all counties in the United States by some Legal Services program; and

(2) The straight arithmetic division of the minimum field program grant divided by the number of poor people. Today that is $6.20 under the 1970 Census, $6.04 under the 1980 Census. This is a minimum funding concept, not minimum access for clients.

We make these distinctions because they are important. The original minimum access concept embodied the idea of a stable core of legal resources available to a segment of the client population that would provide some real opportunity for poor people nationwide to obtain legal assistance. Neither of the alternative meanings comes close to that goal:

> --Coverage of all counties is desirable but also misleading. In many rural areas the nearest Legal Services office may be many, many miles away and impossible for the client to reach. It is symbolic access on paper, not access in fact because resources are stretched too thin.
>
> --Minimum funding is just that, the lowest common denominator of resources. The present minimum per capita of $6.20 relies on the 1970 Census. The 1980 Census, with an increase of 700,000 governmentally defined poor people, would create minimum per capita funding of $6.04, less than one attorney per 10,000 poor people in 1983 cost of an attorney unit.

Thus Legal Services today is not quite halfway home to its original service goal. We propose to complete that journey by using 1984 as the first year of a three-year plan whereby, in FY 86, there will exist two Legal Services attorneys for every 10,000 poor persons throughout the United States.

1. Essential Elements of Minimum Access--For the minimum access plan to work it requires the following elements:

a. The Actual Attorney Unit Cost--The two attorneys in the minimum access concept are units of attorneys--i.e., a unit includes a part of a paralegal; a part of a secretary; a share of space and library and other overhead; travel, telephone and other outreach costs; litigation expenses and other necessary support; in addition to the salary and fringe benefits of an attorney in a Legal Services office of hypothetically six lawyers with varied experience.

In 1975 when the plan was conceived, the attorney unit cost that was used was $35,000 or $7 per capita poor person (although it was conceded that the $35,000 was probably low). The cost today appears to be approximately $62,000 whether calculated by applying the rate of inflation since 1975 to the original $35,000 or by using a more complex distribution of attorney personnel costs, non-attorney personnel costs and non-personnel costs which can be made available to the Committee if you desire.

b. Keeping Pace with Inflation--Set forth below is Table A, a comparison of the per capita funding in real life as it would have changed from $7 per capita in 1975 to a projected $13.099 in 1983, based upon the increase in inflation, with the per capita rate of funding of Legal Services programs based on the actual cost-of-living increases received by the field. As is obvious, Congress and LSC funding to the field did not keep pace with inflation and, of course, regressed in 1982. Thus by the end of 1983 Legal Services programs nationwide will on the average have , funding sufficient for less than one attorney for every 10,000 poor people.

TABLE A

Per Capita Rate of Minimum Funding as Affected By
Cost-of-Living--Comparison of Actual C/L to LSC Funding

Year:		1975	1976	1977	1978	1979	1980	1981	1982	1983
Real life:	C/L		1.058	1.065	1.076	1.113	1.13	1.104	1.06	1.049*
	P.C.	7.00	7.406	7.887	8.487	9.446	10.67	11.78	12.487	13.099
LSC:	C/L		1.0	1.0	1.0	1.055	1.05	1.06	.754	1.0
	P.C,	7.00	7.00	7.00	7.00	7.385	7.75	8.22	6.20	6.20**

*Projection as contained in President Reagan's 1983 budget message to Congress.

**Adjusted for the 700,000 increase in poverty population between 1970 and 1980, this would become $6.04.

c. Retaining Support Centers, Client Development and Other Supportive Characteristics--Non-access by clients can be of two kinds, geographical and qualitative. The first kind is clear but the second less readily apparent. A client, to receive high quality service, needs to have access to attorneys who are experienced and expert. This is meaningful access, not just exposure to a warm body. The struggle by Legal Services programs to continue high quality representation in the face of budget slashes and stagnation would be drastically impaired if national and state support centers and the National Client Council were to be abolished. The support centers provide essential, expert research, analysis and advice which would have to be done in field programs at far less cost-efficiency. The National Client Council provides leadership and technical assistance in helping clients to develop their own capability to learn their legal rights and responsibilities and to advocate in their own behalf.

In addition, we need the funds for training and technology in order to keep abreast of the law and to sharpen skills.

2. The Recommendation of $296 Million for 1984--LSC's appropriation always lagged one year behind the increase in inflation. Thus LSC never received a cost-of-living increase for 1981 because, come 1982, we incurred a 25% cut. Therefore, we suggest that the appropriate way to begin restoration of minimum access is by catching up with the rise in inflation in 1981, 1982 and 1983. For this purpose we have taken the inflation increases as calculated (or projected for '83) in President Reagan's budget request to Congress for FY 84 and have applied them to the 1983 base of $241 million:

Year	C/L Increase	Total
1981	10.3% = $24.82 m.	$265.82 m.
1982	6.0% = 15.95 m.	281.77 m.
1983	4.9% = 13.81 m.	295.58 m.*

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*Rounded off to 296.

We estimate that full restoration of minimum access by 1986 likely would require funding for basic field, migrant and Native American programs, national and state support and the National Client Council of approximately $415 million plus whatever administrative costs are involved. Specific details can be provided should you wish.

3. Responding to Representations by LSC--Several assertions made by LSC require clarification:

a. Maintenance of Nationwide Geographic Coverage--LSC claims that it maintained nationwide geographic coverage in 1982 and 1983 and will be able to do so in 1984 at $257 million. What was maintained was a nominal declaration that every county is "covered". But, as pointed out earlier in this paper, coverage meant to convey real access does not exist in hundreds of counties across the United States. The fact that a Legal Services program is assigned responsibility for serving a given county is meaningless unless the resources exist to put the client and the program together. That cannot exist in an environment where, by the Corporation's own count on page 12 of its 1983 "Fact Book", 373 field offices were closed between 1981 and 1983 (not to mention the fact that in 1981 we were far from reaching all the areas where poor people live).

b. The Number of Attorneys Increased in 1982--Mr. Bogard's carefully worded statement was that "Most states experienced increases during calendar year 1982 in the number of attorneys in the basic field programs." But a comparison of 1981 with 1983 figures at page 13 of LSC's "1983 Fact Book" reveals that between 1981 and 1983 there was a loss of 1,546 attorneys in field programs.* And even that loss is understated, because a number of the attorneys added from '82 to '83 were paid for by funds raised by programs. Such funds are frequently one-time in nature. Of the 4,791 attorneys attributed to Legal Services programs in 1983, 50% or more of the salary is paid by non-LSC funds for about 700 of those staff lawyers.

We also note that a chart which has appeared in past LSC "Fact Books" is omitted in 1983, namely, the number and percent of field programs by size of attorney staff. Had LSC made the figures available we believe they would have shown that the number of programs with small legal staffs increased by 50% from 1981 to 1983, with a corresponding reduction in the number of programs with large staffs.

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*The loss in attorney staff of 24% was compounded by a 28% reduction in paralegals and a 42% loss in law clerks, all told a crunching retrenchment in services.

D. Alternative Resources, Including the Private Bar, Are Insufficient

A member of Congress noted at an LSC appropriation hearing earlier this year that "Congress wants a strong and effective legal services program." While supplementary resources should be sought, the only way to assure a "strong and effective" Legal Services is for Congress to provide the core funding and the continuity from one year to the next.

Nevertheless, seeking additional resources is not mutually exclusive with the role of Congress, and the field programs of course support the effort to make more resources available. The most obvious source is the legal profession since state governments and private charitable giving are already inundated with competing needs of the various social programs and their constituencies that have lost large amounts of money by the recent federal budget cuts.

While the private Bar is a valuable potential source of representation, there is much we have to learn about its use. The effectiveness and cost-efficiency of private Bar delivery remain largely unknown as compared to the proven ability of staff programs. Compensated services such as judicare may make far less sense, lest we get trapped in escalating costs similar to Medicare, than leveraging a relatively small amount of money to stimulate private attorneys to provide pro bono services.

Any increase in Legal Services funding for 1984 should not be mandated for private Bar delivery because:

(1) It would undermine the return of field programs to needed capability--and, ironically, it is a well-accepted fact that successful private Bar delivery is dependent on being tied to services provided by staff programs;

(2) It conflicts with the concept, prescribed in the Legal Services Corporation Act and a major tenet of Legal Services, that determination of the best method of delivering services is to be left to local programs. Local programs are controlled by private attorneys chosen by Bar associations and are in the best position to "determine the most effective means of delivering legal assistance in their communities," as the Corporation's own budget request notes;

(3) Client trust account funds (IOTA), a growing source of alternative funding, offer a means of increasing private Bar delivery without jeopardizing the stable core funding for staff programs; and

(4) Greater funding for private Bar delivery is premature until the effectiveness, cost-efficiency and appropriate circumstances for use are studied in light of the 1983 commitment of such funds. For instance, programs across the country are utilizing at least six different delivery models involving private attorneys and 149 programs are using the private Bar in many ways other than direct delivery, according to a status report of March, 1983, by the Corporation. Many of those methods are in combination, including the mix of pro bono and compensated panels about which "little is known." The report points out that successful implementation of private attorney plans is dependent on a number of factors which vary program to program, region to region. Obviously close study and analysis is necessary before we travel further down the road of private Bar delivery.

E. Continued Protection By Congress Is Needed

When it became apparent in 1982 that an unconfirmed LSC Board of Directors, recess appointees of an Administration that wished to abolish Legal Services, were bent on imposing destructive policies, the Congress interceded to attach protections against such measures to the 1983 appropriation. The field thanks you for your concern and your decisive actions.

Regrettably, the situation today is even worse. At this date no nominees have been sent to Congress for confirmation. A new Board of only five persons is deciding national Legal Services policy--this Board contains no persons with prior experience connected with Legal Services, contains no minorities, contains no women, and contains no eligible clients, in clear violation of the Act. There is a new management staff--it contains no attorneys with Legal Services experience, none of its many new hires have been either blacks or women, and this staff was chosen by a President of LSC who was himself selected by the 1982 Board which no longer exists and which, as a group, was committed to a destructive and arrogant course.

When President Bogard testified last month on the LSC appropriation, one of his greatest concerns was that Congress lift the restriction that prevents LSC from reducing field program grants without a confirmed Board. And plans move forward in LSC to reallocate grant funds, ostensibly in connection with the 1980 Census, as President Bogard testified.

The field is deeply alarmed. The national Legal Services program owes its acknowledged success to the talents and dedication of staffed programs which, despite the controversy, cutbacks and constant threat of extinction, have continued to serve large numbers of poor people with high quality and professionalism. While we believe in and support the involvement of the private Bar and others in meeting the legal needs of the poor, we are also convinced that the long-term capability to meet those needs depends on the retention and growth of staffed programs. The field is concerned, therefore, that given the present staff composition of LSC and given a benign LSC Board that will not interfere, either or both of the following will occur:

1. Were Congress to appropriate increased funds for the Corporation, those funds might not be allocated in turn to existing field programs, support centers and the National Client Council to help us rebuild toward fulfillment of the minimum access goal. We respectfully suggest that you consider language to be attached to the appropriation that will protect the realization of that goal. For example:

> "Increased funding above the FY 1983 appropriation shall be used by the Legal Services Corporation to assist existing field programs, their support centers and the National Client Council to begin to restore the capability to provide two staff attorneys for every 10,000 poor people."

2. Although the 1980 Census reflects a change in the residency of low-income people, it would be a mistake in our judgment to redistribute existing grant funds, for several reasons:

(a) That will mean an actual loss of dollars to some programs, an awful blow on top of the 1982 cuts and 1983 stagnation;

(b) No program, before or after the redistribution, is adequately funded to meet the legal needs of its client population--we are only addressing, therefore, the relative capacity to respond; and

(c) No program wants to increase its resources over the bodies of other programs which will be forced to lose still more staff and go through still more demoralizing reductions.

We propose, instead, a simple solution. Since our goal is to reach a funding level in three years that will provide two attorneys for every 10,000 poor people nationally, simply move each program each year a proportionate way toward that goal while not reducing the funding level of any program. As our analysis and map show, there are only a miniscule scattering of programs in the country already at minimum access as that term is defined to mean two attorneys per 10,000 poor people. They could receive modest cost-of-living increases to avoid stagnation. All other programs could move gradually and proportionately toward the same goal--those furthest below minimum access would be receiving more funds than those higher up the ladder, of course.

At the end of the three years, all field programs would be funded equitably in relation to their respective client populations.

This approach, by careful grafting of new funding onto existing programs, leaves programs intact, and with a sense of expectation about their future growth. It leaves our client communities with a conviction of self-worth--that we believe enough in the principle of Equal Justice to build on the present level of funding, not simply to reshuffle the deck.

F. Legal Services Needs to be Able to Provide a Full Range of Services in All the Forums of our Legal System

Ordinarily we would not raise substantive Legal Services issues in connection with an appropriation bill, but in 1982 (as has sometimes been true in the past) Congress attached various riders to the LSC appropriation which restricted the way in which Legal Services attorneys can provide representation to their clients. President Bogard commented on those restrictions supportively in his testimony last month.

The field programs feel deeply about this issue and want to emphasize the following in as strong and unequivocal way as we can:

1. Serving Individual Clients--Our obligation is to our individual clients whom we agree to represent. There is somehow a notion--a myth--that because we sometimes use class actions, lobbying and administrative rule-making proceedings to seek relief that we are serving our own causes and not those of our clients. False. What we are acutely conscious of, however, because we experience this in our daily professional lives, is that the individual client's problem is frequently representative of hundreds or thousands of poor persons who will never come to see us for help or whom, if they did come, we could not serve as individuals because we simply lack the resources. We also are aware that our given client could well return to us next week or next month with the very same problem we resolve for that person today.

We believe Congress did not intend to establish a revolving door of client services. It would be unprofessional, immoral and lacking in common sense if we did not attempt, where possible and with the individual client's consent, to resolve problems in ways that benefit not only that client and not only for the time being, but benefit on a long-term basis the great many eligible clients suffering from the same "legal" injury but who cannot receive help directly at our hands. These other beneficiaries are individual human beings who are poor and victimized by the legal system no less than the clients who come to our offices. Legal methodologies such as class actions, administrative and legislative advocacy serve the function of bringing the law home to bear in the lives of the great many rather than the few.

2. Cost-effectiveness--Congress established a national Legal Services program for all poor people, not just selective ones. It did so with public funds. Obviously it is the responsibility of Legal Services programs to operate in economical, cost-effective ways. If we had to resolve each and every legal need separately for each and every eligible client the cost would be astronomical, far higher than Congress will ever appropriate. But class actions, administrative and legislative advocacy are efficient means, under appropriate cir-

cumstances, of enabling the legal system to reach others who would otherwise go unrepresented. They are simply means of maximizing the utility of public funds.

3. Professional Judgments Measured by their Success--The decision by a local field program to file a class action or to employ administrative or legislative advocacy is a professional judgment made by experts. It is not done cavalierly. Such efforts require particular kinds of expertise and take a lot of work. They are not undertaken lightly. Above all they must be effective in their results to be justifiable. Our record in those matters is outstanding. It is not that Legal Services programs always are successful, but we achieve good results most of the time--and those results are determined not by us but by impartial third parties who must make their decisions professionally: judges, administrative agencies' staff, legislators and other public officials.

4. Equality of Representation--Class actions, administrative and legislative advocacy are tools of our craft. They are tools available to private attorneys in the exercise of the judgment of those private attorneys on behalf of paying clients. We deeply resent the notion that such instruments of the law are off limits to lawyers for the poor. It is especially incongruous in view of the expansion of Legal Services to include delivery of services by private attorneys. Are those private attorneys to be forbidden to bring class actions or lobby when wearing their Legal Services hats? Are those private attorneys to be allowed to bring class actions or lobby for low-income clients referred by field programs while the staffs of such programs are not?

We ask, therefore, that we be allowed to represent our clients with the same available remedies and in the same forums as private attorneys can represent their clients. It is not unreasonable for Congress to establish procedures that assure that we are exercising professional judgment and are representing actual clients in such matters, but to outlaw such client representation altogether--as does the restriction on legislative advocacy--is offensive to the principle of Equal Justice.

Brief response is needed to certain contentions of the "new" Legal Services Corporation in its budget request:

--LSC asserted that the goal of Legal Services is access to the "judicial system." That is far too narrow. The Act is plain, as it logically must be, in stating that "Congress finds and declares" that there is a need to provide "equal access to the system of justice in our nation for individuals who seek redress of grievances." Our system of justice is administrative, legislative and judicial. There must be justice in the creation of new laws and in the implementation and regulation of law, not just in its interpretation.

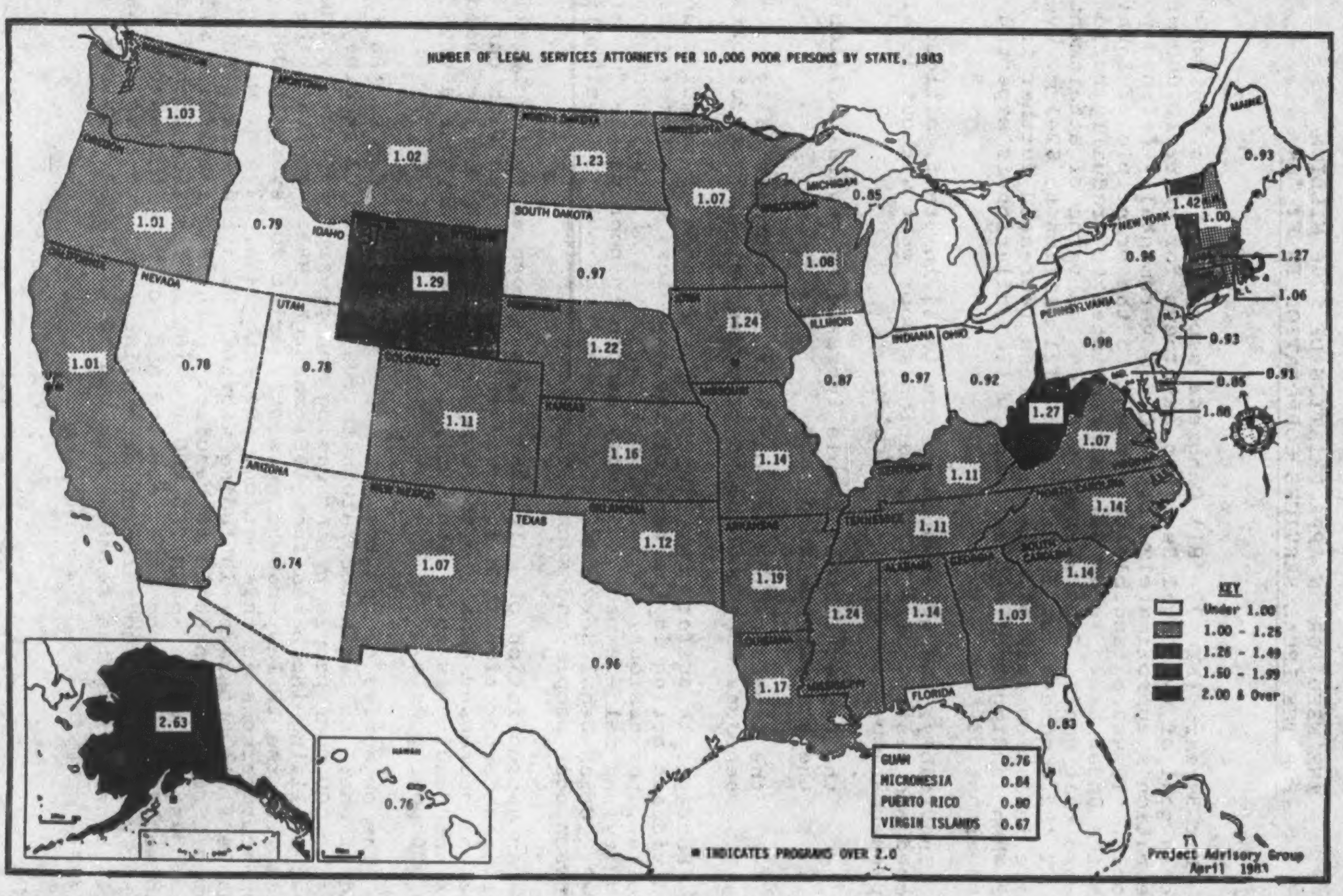
--LSC claimed that "neighborhood lawyers" in OEO days saw themselves as soldiers in a war on the causes and effects of poverty and only secondarily as legal counsel to individuals unable to afford attorneys. That is absurd. We provided direct legal assistance to millions of individual poor people. Congress saw fit to transfer the OEO Legal Services programs to LSC and to praise them in the process. The point missed by the Corporation is that there is an inevitable correlation between the legal needs of the poor and their economic condition. The law can terribly deprive and grind down poor people--it can make the fact of their poverty a stark and onerous reality in their lives. Congress saw that when it found among the purposes of the LSC Act a necessary relationship between serving "best the ends of justice" and assisting "in improving opportunities" for poor people.

--LSC alleged (and Mr. Bogard reiterated in his testimony) that the lobbying restrictions free up attorneys for those functions which, "unlike lobbying, cannot be performed by poor persons without assistance of trained legal counsel." Legislative advocacy, at least as performed by Legal Services programs, is essentially a lawyering function. Our lobbying is not of the wine-and-dine variety. There is nothing unseemly about it. We gather data, analyze the facts, apply the intended legislation to the facts and call to the attention of the legislators the implications and consequences. In most legislatures across the nation our lobbying is valued by legislators, whether friends or foes, as performing a necessary public service. Poor people cannot perform that function without the assistance of counsel anymore than they can represent themselves in court or at administrative hearings.

G. Conclusion

There are approximately 28 lawyers in the U.S. for every 10,000 non-poor persons. Contrast that ratio with the modest objective of this request: $296 million for FY'84 to begin the return to realization of the goal of 2 Legal Services attorneys for every 10,000 poor persons by increasing the present $241 m. by the cost-of-living increase from 1981 through 1983. Modest as our request may be, in human terms it means that an added 266,000 low-income families will receive representation in 1984 who might otherwise suffer devastating losses. Many thousands of other poor people who experience similar legal problems will benefit from the results obtained by Legal Services programs.

It is not only the rebuilding of Legal Services but the rebuilding of lives that will have begun.



NUMBER OF LEGAL SERVICES ATTORNEYS PER 10,000 POOR PERSONS BY STATE, 1983

WASHINGTON 1.03
OREGON 1.01
CALIFORNIA 1.01
IDAHO 0.79
NEVADA 0.78
UTAH 0.78
ARIZONA 0.74
MONTANA 1.02
WYOMING 1.29
COLORADO 1.11
NEW MEXICO 1.07
NORTH DAKOTA 1.23
SOUTH DAKOTA 0.97
NEBRASKA 1.22
KANSAS 1.16
OKLAHOMA 1.12
TEXAS 0.96
MINNESOTA 1.07
IOWA 1.24
MISSOURI 1.14
ARKANSAS 1.19
LOUISIANA 1.17
WISCONSIN 1.08
ILLINOIS 0.87
MICHIGAN 0.85
INDIANA 0.97
OHIO 0.92
KENTUCKY 1.11
TENNESSEE 1.11
MISSISSIPPI 1.24
ALABAMA 1.14
GEORGIA 1.03
FLORIDA 0.83
SOUTH CAROLINA 1.14
NORTH CAROLINA 1.14
VIRGINIA 1.07
WEST VIRGINIA 1.27
PENNSYLVANIA 0.98
NEW YORK 0.96
N.J. 0.93
MD. 0.91
0.85
1.08
1.42
1.00
1.27
1.06
MAINE 0.93
ALASKA 2.63
HAWAII 0.76
GUAM 0.76
MICRONESIA 0.84
PUERTO RICO 0.80
VIRGIN ISLANDS 0.67
KEY
Under 1.00
1.00 - 1.25
1.26 - 1.49
1.50 - 1.99
2.00 & Over
■ INDICATES PROGRAMS OVER 2.0
Project Advisory Group
April 1983

THE NEED FOR AN APPROPRIATION OF $296 MILLION FOR THE LEGAL SERVICES CORPORATION IN FY '84

For 5 years (FY '77-'81) Congress supported LSC's minimum-access goal of two Legal Services attorneys for every 10,000 of the nation's approximately 30,000,000 governmentally defined poor people. It was a tangible commitment to the principle of Equal Justice Under Law. Funds were appropriated to gradually build toward that goal. Just when we were on the verge of attainment, in FY '82 Congress cut funding from $321 million to $241 m. even while inflation rose 6%. Legal Services regressed further in FY '83 when funding remained stagnant while inflation is expected to rise almost 5%.

Inevitably, there was a sharp cut (30%) in staff, offices closed and vast numbers of the nation's poor went without legal representation even while, ironically:

- the number of poor people increasd by several million as the economy worsened; and
- the impact of the law on their lives dramatically worsened as many government programs were cut or cut off.

Poor people suffer grave injury at the hands of agencies and individuals acting in the name of the law--loss of income, jobs, shelter, possessions, children, health, civil rights, education, dignity and self-respect routinely happen to poor people "under law". Often Legal Services attorneys are the only ones standing between poor people and such devastating deprivations.

An appropriation of only $257 m., as proposed by the Legal Services Corporation itself, would only keep us even with our present depressed capacity to respond to the high level of need. Current funding is sufficient only for one attorney for every 10,000 poor people.

The objective of the request for $296 million for FY '84 is a modest one: to begin the return to realization of 2 attorneys per 10,000 poor people by increasing the present $241 m. by the cost-of-living increases from 1981 through 1983. Contrast that goal with the 28 lawyers who presently exist for every 10,000 non-poor persons in this nation. Nevertheless, $296 m. will enable field programs, including migrant, Native American and support centers, to begin to rebuild. With that rebuilding will come justice for an added 266,000 low-income families each year who would otherwise go unrepresented and for many thousands of other poor people who suffer from similar legal problems and who will benefit from the results obtained in the Legal Services cases.

SOURCE OF LEGAL ASSISTANCE TO POOR PRIOR TO LSC

Senator **Specter**. Where did the representation come from before LSC came into existence, Mr. Ray?

Mr. **Ray**. Well, the Legal Services Corporation was enacted in 1974. There was a federally funded office of legal services under OEO. That began in 1964.

Before 1964, it was a charitable enterprise.

Senator **Specter**. Lawyers simply contributed certain amounts of money?

Mr. **Ray**. Yes; and there were ad hoc legal aid companies across the country struggling. Most people went unrepresented, and their rights were violated.

Senator **Specter**. I think there still is a tremendous amount of free legal services rendered obviously, if not always willing.

Mr. **Ray**. Yes; there sometimes is a debt collection problem, that is true, but the need will never be met by the private bar. They can supplement, but they cannot repay.

Senator **Specter**. My sense is the private bar takes care of a great deal of it, but there is a big area of need which ought to be accommodated by community legal services.

Mr. **Ray**. Yes.

Senator **Specter**. Thank you very much.

Mr. **Ray**. Thank you.

Senator **Specter**. I would like to turn now to Mr. Goss, the executive director of the Newsletter Association of America, for the Securities and Exchange Commission.

NEWSLETTER ASSOCIATION OF AMERICA

STATEMENT OF FREDERICK D. GOSS, EXECUTIVE DIRECTOR, NEWSLETTER ASSOCIATION OF AMERICA

REGULATIONS OF ADVISORY NEWSLETTERS

Mr. **Goss**. Thank you, Mr. Chairman. With your permission, I will summarize as briefly as I can who we are and why we are here.

We represent the publishers of commercial, for-profit newsletter publishers. Several hundred of our members publish newsletters that cover financial and investment topics and are required to register with the Securities and Exchange Commission, as investment advisers, which requires a Government license in which to engage.

We feel it is inappropriate and obviously an extraordinarily strained interpretation of the exemption for publishers contained in the 1940 act that can possibly hold that newsletter publishers should be required to register, as if they handle clients' funds as advisers, when precisely the same advice as in newsletters is contained in printed form in magazines like Money, and on the air, and in television programs like Wall Street Week and Review, which are all exempt from the requirement to register.

We are not asking for a specific fee in this testimony. We have been in an exchange with SEC as to how many moneys are expended. We said a year ago $2.4 million, an estimate that we got from them under FOIA information when they couldn't or wouldn't tell us. Later they came back and told us their cost was $58,174 a year, which we find to be a ludicrous assertion, and are presently working to get more details.

Senator SPECTER. What is it you want the Appropriations Subcommittee to do?

Mr. GOSS. I would like you to remove $2 million from the SEC and cause them to cease from regulating advisory newsletters.

Senator SPECTER. We can take their money away, but can we give them a direction?

Mr. GOSS. I would hope that it would help. We are also working to get legislation introduced.

Senator SPECTER. If we took all their money away, we would not have to give them a direction.

Mr. GOSS. That's correct.

Senator SPECTER. So that would be an implicit direction, but how can we give them a direction, Mr. Goss?

Mr. GOSS. I would like you to be able——

Senator SPECTER. Have you gone to the authorizing committee, to the Commerce Committee?

Mr. GOSS. Yes; I have. I am looking to get legislation introduced, and newsletters should be added to the exemption that exists.

Senator SPECTER. It would not take long to draft.

Mr. GOSS. Exactly, but this would make it specifically clear so our testimony here is part of a two- or three-part effort to make it apparent in as many avenues as are open to us.

To conclude, whatever amount of money they are spending, we ask the question with this regulation, who is being protected and from what?

Obviously, the possibility exists that the editor of a financial newsletter could engage in activities like touting stocks.

We submit that the basic Securities Act gives them all the authority they need to proceed against such action as they have done.

REGULATIONS TESTED ON FIRST AMENDMENT GROUNDS

Senator SPECTER. Their regulation has been tested on first amendment grounds, I assume?

Mr. GOSS. There is not a controlling precedent, although there is one very interesting case that came up in the last year.

A gentleman named Christopher Low, who is an ex-convict, and his convictions are related to his previous activities as an investment adviser—the SEC sought to get an injunction prohibiting him from publishing a newsletter.

A district court said he could not be prohibited from being an investment adviser. He could be prohibited from seeking clients to invest their funds, but he could not be prohibited from publishing a newsletter.

And that there was no authority under the judge's view under the Investment Advisory Act, and this is our position: That the first amendment in this country should permit anybody to publish anything, essentially, that they choose to without a prior documentation of their worthiness as to their expertise, or truth, and so forth.

That is the basic position that our association takes. We are fully in support of regulation to investment advisers who handle clients' funds as opposed to publishers who provide a subscription and undertake only to produce a certain number of issues of a publication.

The SEC also contends that this provides protection against the publishers defaulting. Our view is if Congress intended subscribers to publications to have such a protection, that they would have done it across the board. All other types of newspapers, magazines, and other publications would also be regulated by the SEC or other appropriate agencies with their financial creditworthiness, guarantees, inspection of their books, auditing, all of which is done for publishing advisory financial newsletters.

That is our basic position, Mr. Chairman.

[The prepared statement of Frederick D. Goss follows:]

PREPARED STATEMENT OF FREDERICK D. GOSS

EXECUTIVE DIRECTOR

NEWSLETTER ASSOCIATION OF AMERICA

SUMMARY: A REDUCTION IN FY84 APPROPRIATIONS FOR THE SECURITIES AND EXCHANGE COMMISSION IS URGED.

Good Afternoon. Thank you for affording me this opportunity to address this Committee. My name is Frederick D. Goss, and I am Executive Director of the Newsletter Association of America. Our more than seven hundred members publish over 1,700 newsletters read by many millions of Americans.

We request that you remove from the appropriations for the Securities and Exchange Commission all monies used to fund its newsletter and magazine regulation and censorship program. This should produce direct budget savings in Fiscal '84 of more than one million dollars. In addition, private sector regulatory costs would be reduced by several million dollars, substantially boosting tax receipts.

The Securities and Exchange Commission's control of the newsletter industry, which it is now attempting to expand to encompass financial magazines, has its roots in the Investment Advisers Act of 1940, which requires money managers, investment counsellors, pension fund advisers and similar custodians of the public's funds to register with the SEC as investment advisers. Congress, in its wisdom, specifically excluded from the definition of an investment adviser "the publisher of any bona fide newspaper, news magazine or business or financial publication of general and regular circulation."

Over the years the SEC has interpreted that exclusion for its own purposes, holding that investment oriented newsletters are not

"bona fide" publications of general and regular circulation. From that obtuse regulatory interpretation has grown the SEC's extensive and expensive program of regulating and censoring newsletters, and more recently, magazines.

Newsletter publishing is the only form of speech or press regulated by prior government license. No other form of publishing activity requires a prior license from the U.S. Government.

Many of our members publish newsletters that cover financial and investment topics. Therefore the Securities and Exchange Commission considers them to be "investment advisers" - even though these publishers have no control over, or custody of, readers' investments. Newspapers containing identical investment reports and recommendations are not required to register as advisers. Only newsletters and certain magazines are subject to this discriminatory regulation.

Once registered, the SEC requires publishers to file financial reports more detailed than those required of many small public companies. The SEC strictly regulates the advertising policies of registered publishers, but not the competing advertisements of newspapers and unregistered magazines. The SEC devotes substantial resources to detailed investigations of publishers' books and records while claiming it lacks the facilities to make annual examinations of all money market mutual funds - entities controlling two hundred million dollars of investors' monies.

There are no abuses which require special regulation of the publishing industry in the name of the public good. The same laws which the SEC would use to punish misconduct by a Wall Street Week television commentator or a writer for The Wall Street Journal, if any such abuses should ever occur, are more than adequate to deal with any misconduct in the newsletter and magazine industries, assuming that that misconduct might ever occur. The sole reason for the SEC's press regulation and censorship program is perpetuation of the program itself. This is regulation for the sake of regulation.

The SEC claims that this program costs a mere $58,000 a year, a figure so patently false as to be an embarassment to an agency whose job is to assure truthful financial disclosure by the private sector. Our estimate of the cost of this program is based on information we have obtained through the Freedom of Information Act.

The SEC claims that its activities do not include outright censorship because newsletters and magazines are not required to submit material for clearance in advance of publication. However, the first step in the inspection of each publisher is to require the publisher to provide the SEC with a back file of all publications, newsletters, reports, magazines, advertisements - even books - published in the past year. Any student of Freedom of the Press can tell you that the most insidious forms of censorship are not always the most blatant. The staff of the Commission manages to make clear to registered publishers what type of information and articles it considers inappropriate and offensive. Members of the SEC staff have gone so far as to insist on changes in published ratings of specific securities. As well, needless to say, criticism of Commission policies by newsletter publishers is almost non-existent.

Individual publishers are understandably loathe to criticize an agency that holds life and death power over their newsletters. However, the Newsletter Association of America, speaking both on behalf of our industry, and as the representative of a substantial body of taxpayers, urges you to eliminate this program from SEC appropriations for the forthcoming fiscal year.

No legislative change is required because no legislation mandates such regulation. This entire program of press licensing, regulation and censorship is a creation of SEC interpretations. It can be dismantled by the SEC by the stroke of the pen, if Congress will simply cut off the funding.

There are substantial constituencies and substantial public support for many of the programs you will be forced to trim as you work to reduce federal spending and achieve a more balanced budget. There is absolutely no constituency, and no public support whatsoever, for the SEC's continued lavish expenditures on censorship and regulation of the financial press. We respectfully request that you put an end to these expenditures.

Thank you.

Senator **Specter**. Thank you very much. It is a very interesting position you are advancing. You might have more direct relief in the courts, but we will be pleased to consider what you have to say.

Mr. **Goss**. Thank you, Mr. Chairman. We are pursuing this action at this term.

Senator **Specter**. I will next turn to the Board for International Broadcasting, Mr. John Bolsteins.

The Freedom Federation

STATEMENT OF JOHN BOLSTEINS, COCHAIRMAN, COMMITTEE ON INTERNATIONAL BROADCASTING, THE FREEDOM FEDERATION

BUDGET REQUEST FOR INTERNATIONAL BROADCASTING STATIONS

Mr. **Bolsteins**. Thank you. We appreciate this opportunity to express our views in support of the pending budget requests for the U.S. international broadcasting stations. That is, the Voice of America, and Radio Free Europe, and Radio Liberty.

I will read my statement, but I will keep it short. It is typed up.

Budgetary constraints of earlier years have taken their tolls on VOA's and RFE/RL's ability to keep pace, both technically and programmatically, with developments in their existing broadcast areas, not to mention expansion into new areas.

The Carter administration was supportive in bringing on line a series of new transmitters, and presently, the Reagan administration has announced last year a major modernization program for the international broadcasting systems.

As the first leg of this planned modernization, the administration is seeking a supplemental appropriation in 1983 for VOA and RFE/RL. While we feel that entire package merits strong support, we would like to underscore those elements which we find deserve special attention.

For the Voice of America, the requested engineering positions will be indispensable if its modernization plan is to maintain direction in the years ahead.

The allocations for research into direct broadcast satellite transmissions and for technical modernization of the studios and other equipment are necessary to prevent VOA from lagging further behind in the ongoing technological radio communications revolution.

In the area of programing, we request the expansion of VOA's language services and other broadcast bureaus. The establishment of a rigorous and innovative training and career development program is vitally important given the frequent difficulties in staffing 42 different language services.

With respect to Radio Free Europe, we have delivered a supplemental, which would emphasize the need for program improvement and, within Radio Liberty, the expansion of non-Russian language programing and Soviet area research.

Our RFE/RL's freelance service should not be allowed to wither as in past years, and the intern program, together with a well-executed recruitment program, can become a pipeline for the replacement of those who are slated to retire. As in the case of VOA, studio and transmitter augmentation is necessary to reverse years of accumulated neglect.

The funding for antijamming research should speak for itself considering RFE/RL's constant confrontation with that problem.

Finally, the projected news bureau in Pakistan appears to be a logical step since the struggle going on there is of intense interest to RFE/RL's audience.

For 1984, RFE/RL's budget estimate is modest, falling as it does below the 1983 budget with the inclusion of the supplemental. The 1984 request for four new transmitters, which would beam toward the heavily jammed areas of Poland and the Baltic States, must be highlighted, together with such items as the funding for coverage of next year's Olympics.

VOA's 1984 estimate calls for increased broadcast hours to Afghanistan, Russia, Armenia, Georgia, and Albania, as well as augmentation of numerous transmitter sites for better coverage of selected Third World countries, additional elements which we fully support.

In the case of both broadcasting enterprises, major portions of their 1984 requests are targeted to maintain the improvements which are to be brought about by the 1983 supplementals.

RADIO MARTI

The Freedom Federation also supports in principle the establishment of Radio Marti. The nature of Radio Marti's programs will, we trust, be geared to create an appropriate degree of political consciousness on the part of its respective audience.

Furthermore, Radio Marti could complement the serious, conscientious, and professional work that for the past 2 years one of our member organizations, Cuba Independent and Democratic, has been conducting through private broadcasts to Cuba.

This combined effort could have the potential of breaking the monopoly Castro has on the domestic mass media.

In concert with the governmental initiative represented by Radio Marti, we would also like to suggest for future consideration the establishment of surrogate domestic broadcasting to Cambodia, Laos, and Vietnam, a Radio Free Asia perhaps. The U.S. interests in that part of the world were paramount not too many years ago. The initiation of such broadcasts would indicate that those interests remain consistent.

In closing, in its deliberations on the requested budget figures, we urge the subcommittee to look to the future.

A positive and comprehensive approach to the 1983 and 1984 budgets for VOA and RFE/RL can set the stage for putting those stations on a firm footing for many years to come.

We would urge the subcommittee to give urgent and timely attention to the 1983 supplementals.

Thank you.

[The joint statement of John Bolsteins and Istvan Gerehen follows:]

STATEMENT OF
JOHN BOLSTEINS AND ISTVAN GEREBEN, CO-CHAIRMEN
COMMITTEE ON INTERNATIONAL BROADCASTING, THE FREEDOM FEDERATION

Mr. Chairman and Subcommittee Members, we appreciate this opportunity to express our views in support of the pending budget requests for the United States international broadcasting stations. The Freedom Federation is a new organization comprised of the American ethnic groups shown in the attachment. These ethnic groups have a common bond in that all have found their way to America because of direct or surrogate Soviet communist aggression against their native countries. As people who have experienced the loss of freedom first hand, we are uniquely qualified to understand the nature of the Soviet threat. Among our initial activities, we have chosen to focus on this very important area of international broadcasting.

Since their inception, the Voice of America (VOA) and Radio Free Europe/ Radio Liberty (RFE/RL) have performed an invaluable mission, one too often unrecognized and underestimated. This may partly be explained by the fact that we in the U.S. have the luxury of many information sources, in every medium and from every sector of American life. Thus, it may be difficult to appreciate that in most countries of the world a paucity of such sources prevails, and in too many others information control by the state is the norm. In the latter instance, that control is often used to manipulate the population into holding anti-American feelings. VOA and RFE/RL provide the most systematic and effective means of breaking that control and of exposing foreign publics to American policies and ways of life.

Budgetary constraints of earlier years have taken their toll on VOA's and RFE/RL's ability to keep pace, both technically and programmatically, with developments in their existing broadcast areas, not to mention expansion into new areas. Recognizing the need, the Carter Administration took important steps to upgrade their capabilities by requesting a series of new transmitters. And Congress was responsive to that request. We are now equally glad to see the Reagan Administration continue in that direction with the announcement last July of a major modernization program.

As the first leg of this planned modernization, the Administration is seeking a supplemental appropriation to the 1983 budgets of VOA and RFE/RL. While that entire package merits strong support, we would like to underscore those elements which we find deserve special attention. For the Voice of America, the requested engineering positions will be indispensable if its modernization plan is to maintain direction in the years ahead. The allocations for research into direct broadcast satellite transmissions and for technical modernization of the studios and other equipment are necessary to prevent VOA from lagging further behind in the ongoing technological communications revolution. In the area of programming, we support the requested expansion of VOA's language services and other broadcast bureaus. The establishment of a rigorous and innovative training and career development program is vitally important given the frequent difficulties in staffing 42 different language services.

With respect to Radio Free Europe/Radio Liberty's supplemental, we would emphasize the need for program improvement and, within Radio Liberty, the expansion of non-Russian language programming and Soviet area research. RFE/RL's free-lance service should not be allowed to wither as in past years and the intern program, together with a well executed recruitment program, can become a pipeline for the replacement of those who are slated to retire. As in the case of VOA, studio and transmitter augmentation is necessary to reverse years of accumulated neglect. The funding for anti-jamming research should speak for itself considering RFE/RL's constant confrontation with that problem. Finally, the projected news bureau in Pakistan to cover Afghanistan appears to be a logical step since the struggle going on there is of intense interest to RFE/RL's audience.

For 1984, RFE/RL's budget estimate is modest, falling as it does below the 1983 budget with the inclusion of the supplemental. The 1984 request for four new transmitters, which would beam towards the heavily jammed areas of Poland and the Baltic States, must be highlighted, together with such items as the funding for coverage of next year's Olympics. VOA's 1984 estimate calls for increased broadcast hours to Afghanistan, Russia, Armenia, Georgia and Albania, as well as augmentation of numerous transmitter sites for better coverage of selected Third World countries, additional elements which we fully support. In the case of both broadcasting enterprises, major portions of their 1984 requests are targeted to maintain the improvements which are to be brought about by the 1983 supplementals. A commitment to one should indicate a commitment to both.

The Freedom Federation also supports in principle the establishment of Radio Marti. The nature of Radio Marti's programs will, we trust, be geared to create an appropriate degree of political consciousness on the part of its prospective audience. Furthermore, Radio Marti could complement the serious, conscientious and professional work that for the past two years one of our member organizations--Cuba Independent and Democratic--has been conducting through private broadcasts to Cuba. This combined effort could have the potential of breaking the monopoly Castro has on the domestic mass media.

In concert with the governmental initiative represented by Radio Marti, we would also like to suggest for future consideration the establishment of surrogate domestic broadcasting to Cambodia, Laos and Vietnam, a "Radio Free Asia" perhaps. United States interests in that part of the world were paramount not too many years ago; the initiation of such broadcasts would indicate that those interests remain consistent.

Mr. Chairman, two months ago nine members of Solidarity were tried and sentenced for operating a clandestine radio in Poland. At the Madrid meeting of the Conference on Security and Cooperation in Europe, the Warsaw Pact states remain in adamant opposition to "free flow of information" proposals mandated by the Helsinki Final Act. And UNESCO's "New World Information Order" carries clear threats to U.S. and other Western broadcasters. These are a few of the more recent and prominent examples of attempts to deny to others the free communication without which we in the West could not function as free societies. While these programs deal with significant amounts of tax monies, their realization can bring in return the fuller attainment of U.S. foreign policy objectives.

In its deliberations on the requested budget figures, we urge the Subcommittee to look to the future. A positive and comprehensive approach to the 1983 and 1984 budgets for VOA and RFE/RL can set the stage for putting those stations on a firm footing for many years to come. In closing, we urge the Subcommittee to give urgent and timely attention to especially the 1983 supplementals.

FREEDOM FEDERATION--Member Organizations

Abdala Cuban Movement
Afghan Refugee Association
American Latvian Association
Bulgarian National Front in the USA
Byelorussian American Association
Californians for a Strong America
Cham Minority Association
Congress of Russian Americans
Coordinating Committee of Hungarian Organizations in North America
Cuba Independent and Democratic
Czechoslovak National Council of America
Estonian American National Council
Free Cambodia
Friends of Angola
Lao Union Organization
Lithuanian American Community of the USA
Lithuanian American Council
Pomost (Polish) Political Movement
Ukrainian American Community in the USA
Vietnam Freedom Movement

FREEDOM FEDERATION OFFICES

Senator Specter. Where are the offices of Freedom Federation?

Mr. Bolsteins. We can supply that information to the subcommittee. Most of them are in Chicago and Washington.

Senator Specter. Where are they?

Mr. Bolsteins. We hope to have an office this summer.

Senator Specter. Where do you operate now?

Mr. Bolsteins. In most cases, out of our homes.

Senator Specter. So if we write the Freedom Federation, we write to your home address?

Mr. Bolsteins. Yes; I believe the subcommittee has that.

Senator Specter. And the member organization all have--does any have an office?

Mr. Bolsteins. At least half a dozen do have permanent offices or permanent staff, yes.

Senator Specter. I think it would be of use to the subcommittee to have the office addresses for mail reception, localities for each of the member organizations.

Mr. Bolsteins. I will provide you with my home address.

Senator Specter. Thank you. Thank you very much. We very much appreciate your views.

[The information follows:]

The Freedom Federation—Member Organizations

Abdala Cuban Movement, 11029 North Candell Avenue #101, Miami, Fla.
Afghan Refugee Association, 8408 Taylor Lane, Avondale, Va.
American Latvian Association, 400 Hurley Avenue, Rockville, Md.
Bulgarian National Front in the USA, 2801 Naylor Road, S.E. #802, Washington, D.C.
Byelorussian American Association, 166–34 Gothic Drive, Jamaica, N.Y.
Californians for a Strong America, 6363 Sunset Boulevard, Room 826, Los Angeles, Calif.
Cham Minority Association, P.O. Box 4236, Alexandria, Va.
Congress of Russian Americans, P.O. Box 5025, Long Island City, N.Y.
Coordinating Committee of Hungarian Organizations in North America, 4101 Blackpool Road, Rockville, Md.
Cuba Independent and Democratic, 10020 S.W. 37th Terrace, Miami, Fla.
Czechoslovak National Council of America, 2137 South Lombard Avenue, Room 202, Cicero, Ill.
Estonian American National Council, 243 East 34th Street, New York, N.Y.
Free Cambodia, National Press Building, Suite 769, 529 14th Street, N.W., Washington, D.C.
Friends of Angola, 1616 H Street, N.W., Washington, D.C.
Lao Union Organization, 620 S.E. 207th Street, Gresham, Oreg.
Lithuanian American Community of the USA, 2101 Lennox Road, Cleveland Heights, Ohio.
Lithuanian American Council, 2606 West 63rd Street, Chicago, Ill.
Pomost (Polish) Political Movement, 3242 North Pulaski Road, Chicago, Ill.
Ukrainian American Community in the USA, 140 Second Avenue, Suite 21, New York, N.Y.
Vietnam Freedom Movement, 6433 Northanna Drive, Springfield, Va.

Mid-Atlantic Office of Trade Adjustment Assistance

STATEMENT OF DAN FENNELL, DIRECTOR, MID-ATLANTIC OFFICE OF TRADE ADJUSTMENT ASSISTANCE

Senator Specter. I would like to turn now to Panel V: Mr. Dan Fennel, Ms. Aliceann Wohlbruck, and Mr. Paul Radow. Our fifth panel today includes Miss Wohlbruck who will present Mr. Howard

Grossman's testimony who had been scheduled to speak on behalf of the National Association of Development Organizations.

We welcome Mr. Paul Radow, who is appearing at Senator D'Amato's request and also Mr. Dan Fennell. Let's start with you, Mr. Fennell.

Mr. **Fennell**. Yes, Senator. Thank you very much for the opportunity to appear here. I have submitted a written statement. I request that it be contained in the record.

Senator **Specter**. Mr. Fennell, it will be included in full as will all the statements, and to the extent that you can summarize, we would appreciate it.

Mr. **Fennell**. I will, Senator. I have also submitted four other statements which are on the table here. I am speaking both on behalf of the Trade Adjustment Assistance Center, the Mid-Atlantic region and other trade adjustment assistance centers, one of whom was going to be with me here this morning; also the trade centers of which I am secretary and most particularly on behalf of close to 900 firms employing 136,000 people, firms whose names I have provided to the subcommittee located in 45 States have expressed their support for this program.

Mr. Chairman, we are looking for an appropriation of between $35 and $50 million for trade adjustment assistance for firms and industries.

This morning, the Trade Subcommittee of the House Ways and Means Committee marked up a continuing authorization for the program which included, at the amendment of Mr. Schulze from Pennsylvania, a considerable increase in the level of support that could be provided for individual industry studies; it increased that level of support from any one industry from $2 to $10 million.

I would like to highlight four points: Those four points parallel the reasons given by the administration to various committees for removing the trade adjustment assistance programs for funds. They are that there is a very weak loan portfolio; that few firms have been assisted to compete; that there is a high cost and the subsidy is inconsistent with the aims and the goals of this administration, and that, furthermore, there is a preference to rely on general economic recovery to bring these firms along.

Mr. Chairman, on page 6 of my testimony, I include a table showing the history of the loan activity of this program. It shows that in every year since 1978 there has been a decrease in both the amount of loaned dollars and the number of firms that have participated in the loan program. That has not been a slight decrease, but a precipitous one. It has decreased now to one loan in 1983 for under $1 million.

I would submit to you, sir, that the precipitant loan exposure to which the administration alludes is really past history and that the weak loan portfolio——

Senator **Specter**. What do you mean by precipitant loan exposure?

Mr. **Fennell**. I mean that the administration suggests that there is too great an exposure through the loan program of the Government, and the history of the loan portfolio is that of weakness.

Senator **Specter**. What are the repayment records?

Mr. **Fennell**. Excuse me?

Senator **Specter**. How has the loan portfolio done?

Mr. **Fennell**. I don't understand your question.

Senator **Specter**. Have there been repayments of the loans?

Mr. **Fennell**. Yes, there have been repayments of the loans. There is a high default rate of the loans, and I believe that questions put to the Department of Commerce from this committee inquired into that and have been responded to by the Secretary.

So the extent of the loan default rate has been provided, and it is not low. We decry that it isn't low. We don't support giving away loans at all, but what we are suggesting to you, sir, is that the operation of the program that gave rise to that goes only to 1980, and since that point, there have been several remarkable changes in the program; some of those administrative and some of those brought about by the Congress, the majority of which have resulted in much greater tightening of loan criteria, but most importantly, loans are now——

Senator **Specter**. Wait. Have the results since 1980 been remarkably better on repayment than before?

Mr. **Fennell**. Materially better.

Senator **Specter**. What, statistically, are they?

Mr. **Fennell**. Well, of course, you are talking about a much lower exposure, and there are far fewer loans since 1980 than what took place before.

Senator **Specter**. What percentage defaulted before 1980 and what percentage defaulted after 1980?

Mr. **Fennell**. Well, you have the majority of defaults—and I could go into some detail on how the term default is defined.

Senator **Specter**. I don't want to take up too much time, but if you have some concrete demonstrable evidence that the defaults are not pronounced now in contrast with the past, that would be of use to those of us who would like to see this program go foward.

But I don't want to take too much of your time.

Mr. **Fennell**. I would be happy to provide you with anything additional that might highlight that and pinpoint the facts in relation to that.

Senator **Specter**. Submit it.

Mr. **Fennell**. The trade adjustment assistance centers which work with firms and a large variety of industries were instituted or really came into being in 1979. One-third of this loan portfolio was closed before 1979, and a large proportion of it was also obligated before those centers came into existence.

The major change they represent is working with a firm in a strategic turnaround situation, so that the loans are merely a resource to accomplish a recovery.

In the first years of this program, there was not any money appropriated for that activity at all. It was primarily a loan program, and there were no people who were really working on ensuring that those resources were well applied.

That is completely different. The program is so different now, it is as if it had been entirely relegislated. I won't go through all the other points, Senator, because I see that time is going forward. I would like to highlight, however, the business of TAAC.

This is a program that in 1983 cost $27.5 million in terms of appropriations; not all that money was spent. If we take that entire budget, and if we look at the number of people who are employed in the firms that were assisted during that period of time, the cost, including the entire budget which was not spent and which was not applied all to those purposes, was $229 a head.

If you just look at——

Senator SPECTER. What was the best way you can document the success rate of the program?

Mr. FENNELL. There have been over 2,200 firms that have been worked with since this program's inception, over 85 percent.

Senator SPECTER. Excuse me. How many of them were saved which would not have been saved? What causal relationship can you decide? This is a program a lot of us would like to help you on, but we face tough issues with a lot of people who would like to eliminate it. What I am suggesting to you is that the harder the facts you could give us that we can work with in committee, the better off you will be.

Mr. FENNELL. All right. Senator, let me say this, and I will provide something more pointed as well: 85 percent of the firms with whom we have worked are still operating, competing and employing people. This is a tough business.

Senator SPECTER. That is better.

Mr. FENNELL. These are people that were right on the edge. These are people——

Senator SPECTER. How many jobs did you save?

Mr. FENNELL. Over 100,000, among those firms.

Senator SPECTER. At what cost?

Mr. FENNELL. At a cost of less than 1 week of unemployment compensation.

Senator SPECTER. Well, those are facts. If you set those down, when you prepare these statements, prepare your testimony, you could attract the attention of a Senator or a couple of Senators for a very brief period of time, and to the extent when you have 5 minutes—to the extent that you come in, you want to hit us as hard as you can; the better off you would be.

If you can boil that down to one page and submit it to the staff, they will look at it.

Mr. FENNELL. I would seek to submit that, Senator; those particular items are included in my testimony.

Senator SPECTER. Fine.

Mr. FENNELL. And I also point out that the return, the direct return from the people saved exceeds the amount of loans granted in this program in 1982 by tenfold and the total appropriation by sevenfold and exceeds by an equal 60 percent of all the loans that were given out in the program, just in terms of the returns in one year.

That is not other employment-related revenues by the activity of these firms.

Senator SPECTER. Thank you very much.

Mr. FENNELL. Thank you, Senator.

[The prepared statements follow:]

PREPARED STATEMENT OF DANIEL J. FENNELL

SECRETARY - INDUSTRIAL POLICY COUNCIL
DIRECTOR - MID-ATLANTIC TRADE ADJUSTMENT ASSISTANCE CENTER

My name is Daniel J. Fennell. I am appearing today as Secretary of the Industrial Policy Council and as Director of the Mid-Atlantic Trade Adjustment Assistance Center (TAAC), one of thirteen such assistance centers, situated throughout the country, which work with an alarmingly large number of firms who have lost markets to imported products. Like the organizations which host other Trade Centers throughout the country, our parent organization, The Council for Labor and Industry, has specialized in business assistance and other economic development efforts for many years. The Council includes on its board, Presidents and officers of area colleges and universities, the President of the Pennsylvania-New Jersey-Delaware Chamber of Commerce, and the President of the Philadelphia Council, AFL-CIO.

I am speaking today on behalf of each of the Trade Centers which are listed, with the states which they serve, in an attachment to my prepared statement. I am also speaking on behalf of our clients and their employees, particularly those 900 firms in 35 states employing over 130,000 people, which have expressed support for the Trade Program, which are listed in another attachment to my prepared statement.

Last year, in statements which were presented to Budget, Appropriations and Authorizing Committees of both Houses of the Congress, we gave a report on the unusual effectiveness of the Trade Adjustment Assistance Program for Firms and Industries which was long overdue. We described a small program working among the 50,000 firms and 4,000,000 employees spread throughout the country in industry sectors impacted by imports. We pointed out that each state represented on the Congressional Committees had substantial numbers of firms that had received assistance or were candidates for assistance—Firms whose workers would be on the unemployment lines if business dropped much further.

In 130 pages of testimony for the record, we described the nature and results of Trade Act technical assistance to firms and the unique research and development projects which have been sponsored by the industry assistance program under Title II., Chapter 3, of the Trade Act of 1974. We did this because we believed then, as we do now, that the Trade Program has been essential to the recovery prospects of many firms, and that, moreover, the program deserves to be continued on its merits.

We urge you today to continue this useful program and to extend the authorization of the Trade Act beyond September 1983.

We are not here to testify against any of the President's efforts to revive the American economy and to put America back to work. We support the aims of the President's Economic Recovery Program. We are here to advocate TAA because we believe that the Program furthers these aims by assisting firms themselves to be more ably competitive in an increasingly worldwide marketplace. We are perplexed that after adopting Trade Adjustment for Firms and Industries as an integral part of its economic program in its first budget year, the Administration has sought to eliminate it in the last two years. In the Budget Message of February 1, 1983, which was transmitted to the Congress by the President, it was proposed to eliminate the TAA Program for Firms and Industries by deferring expenditures of $20,100,000 from fiscal year 1983 appropriations for the Program and, together with $181,900,000 from the Economic Development Administration, to transfer these funds to the Small Business Administration, in order to meet the huge demands by banks for pay-offs of defaulted business loans guaranteed by the SBA. Although this 1983 deferral was disallowed by the House when it passed House Resolution 75 on March 3, 1983, it is useful to examine the rationale that has been provided for eliminating the Trade Program at this time in light of the actual performance and real cost of the

Program. The reasons given for elimination now, which are similar to those supporting the 1983 Budget Message, are that: The Trade Act loan portfolio is weak, few firms have been helped to compete; the Program is inconsistent with the Government's move away from subsidy programs, and; the Administration would prefer to rely upon its Economic Recovery Program to deal with the real problems associated with Economic Adjustment.

This rationale fails to take notice of the substantial positive results from technical assistance and from the industry projects, nor does it accurately reflect either the nature or reach of the Program.

Loan Activity

We decry the magnitude of the "default rate" which the Commerce Department reports. However, the "default rate" is not reflective of what the Program has been doing in the last several years nor of the prospective government exposure on Trade Act loans. Moreover, the way in which "default" is defined for these reports should be made clear to the Committee.

Several particulars with respect to the overall loan portfolio, which is heavily weighted with loans before 1981 are useful to keep in mind:

- I understand that Commerce has accounted all loans past due 10 days or more as "defaults".
- One firm can be counted several times in the "default" calculation since loans to a single firm are tracked in "units" according to the applications (such as fixed assets or working capital) to which the loan proceeds were to be put.
- Loans awarded by the Domestic Industry Business Administration (DIBA) before the Trade Act of 1974 are included among Trade Act loans in Commerce's "default" calculation, probably because the servicing of these loans was passed along to the Trade Act portfolio.
- During its first years in EDA, the Trade Adjustment Assistance Program was treated primarily as a loan program for weak firms. Less than $500,000 per year was appropriated for technical assistance which is now the linchpin of the Program and without which loans cannot be either reasonably protected or properly evaluated.

- o Fully one-third of the loans in the portfolio were closed before Trade Adjustment Assistance Centers (TAACS), which have become the principal deliverers of technical help to firms, began operating. A significant proportion of loans not yet closed had been preliminarily approved by EDA while TAAC's were starting up.

- o Congress built a high risk into the loan program by reserving its use to firms which could not obtain other financing. Although Section 255 of the Trade Act contained provisions for "reasonable assurance of repayment of the loan", this language was interpreted in the report of the Senate Finance Committee on the Trade Act (page 149) as follows: "The term 'reasonable assurance of repayment,' which refers to both direct and guaranteed loans, should not be taken to mean reasonable assurance in the strict banking or commercial sense because adjustment assistance loans are admittedly high risk loans." In the March 20, 1979, report on improvements to the Trade Adjustment Assistance Program, to accompany H.R. 1543, the House Ways and Means Committee urged the EDA not to require personal guarantees from recipients of Trade Act loans, even when the government had second or third lien positions on collateral.

- o EDA often referred loan cases which it would not consider under its other programs for Trade Act loans in the belief that TAA was established for such risks.

However, despite the fact that in its early years under EDA the TAA Program was treated principally as a loan program, that has not been its emphasis or experience under the International Trade Administration (ITA) where TAA has been an integrated recovery vehicle which ties assistance to systematic and effective adjustment steps.

Although it is interesting to review the origins of the Program, it is more important to examine the recent experience and activity of Trade Act loans in the light of what has happened in previous years, as a guide to decisions about the future.

Below I am including a table which displays the loans awarded to firms from the beginning of the Trade Program in 1975.

SUMMARY OF TRADE ACT LOANS THROUGH DECEMBER 31, 1982

FY	NO. OF FIRMS RECEIVING LOANS	GUARANTEED $ IN MILLIONS	DIRECT $ (IN MILLIONS)	TOTAL LOAN $ (IN (MILLIONS)
Thru 1978	97	43.345	62.339	105.684
1979	82	38.7	55.5	94.2
1980	67	30.0	42.0	72.0
1981	49	21.8	27.9	49.7
1982	12	16.7	2.5	19.2
1983(Dec 31)	1	--	.56	.56
TOTALS:	308	150.545	190.799	341.344

Several points regarding loans are clear from examining the table: in every year since fiscal year 1979, both the number of firms assisted by loans and the total loan dollars have declined; the loan activity since fiscal year 1982 has been negligible, accounting for 5.7% of the total loan dollars in the portfolio and 4.2% of the number of firms receiving loan assistance; thus far, in fiscal year 1983 there has been only one loan which has closed.

Furthermore, we should emphasize that Trade Act loans now constitute a comparatively small portion of the financing which is generated through the Program.

By far the largest number of firms who have received Trade Act assistance have not received Trade Act loans but have been able to reenter commercial capital markets.

I have attached to this statement an illustration of alternative financing which firms assisted by the Program have been able to receive and this does not include the results of all TAAC areas. In summary, the attachments show that approximately $130,000,000 in financing has been obtained by firms working with the Trade Centers which has not come through the Trade Act. This amount of alternative financing does not include the much larger number of dollars which firms have been able to use because, through the Trade Program, they were able to maintain lines of credit and factoring relationships which would otherwise have been foreclosed to them.

In recent amendments to the Trade Act, the Congress has strengthened the Department of Commerce's ability to toughen its credit criteria and ITA has done precisely that. Clearly, the amount of loan exposure in recent years is extraordinarily small and the precipitous Government loan activity to which the Administration alludes is past history.

Firms Assisted to Compete

The loan default issue as a rationale for eliminating the Program is a strawman. In light of its concern with loan defaults, it is ironic that the Administration, through its deferral proposition, has proposed to transform "good" Trade Act money into "bad" SBA loans.

In counterpoint to the 308 firms that have received loan assistance there have been more than 2200 firms who have received assistance under the Trade Program. Less than 14% of these have been involved in the loan feature of the Program and since fiscal year 1981, less than 2% of the firms receiving Trade Act assistance have received loans under the Program.

For the record, we are providing case studies which demonstrate the kind of work that we have been doing for firms and more importantly the kind of work which firms, being able to identify resources that will assist in their redirection, have been doing for themselves. The Trade Adjustment Assistance Centers stand by that record and are seeing it extended every day. Today, I will not recite chapter and verse of these examples from all areas of the country. The point to which I do draw your attention, however, is that nearly 80% of the firms who have received assistance are still operating, competing and employing people.

As you know, many firms which have worked with us have not only reversed their employment losses but have added workers, as well. The Xonics Corporation in Des Plaines, Illinois, had dropped to 800 employees when it began working with the Mid-West TAAC in March 1980. Today, under the direction of its President, Mr. Syd Kulick, (who was not able to join us here today) the company employs 1300 people. This manufacturer of medical imaging equipment is projecting sales for this year of $130,000,000, up from a low of $80,000,000 just a few years ago. The Company has received substantial amounts of technical assistance and based on its performance and Adjustment Plan, has had an application for a heavily collateralized loan approved.

There is no other program in the country which is working for the Xonics' of America in the way that the Trade Program is. The engineering, marketing and productivity studies, and management information systems work being accomplished for firms through this Program is unique. And The industry side of the Program is achieving results far beyond the dollars which are spent. Particularly impressive have been the model programs, developed by Northwestern University's Science and Technology Center, for assisting the U.S. Consumer Electronics Industry; the computer-aided pattern grading service bureau for the Footwear Industry, developed by the New Enterprise Institute - which will aid that industry in gaining productivity efficiency and help it to respond more readily to rapid changes in style; and the assistance projects which are under way or being conceived for the Sportswear Manufacturers, Machine Tool Builders, Textile Machinery Manufacturers, and even the Robotics Industry.

The issue here is that the product of the program is effective adjustment not subsidy or compensation.

Cost Effectiveness vs. "Subsidy"

Jobs

You should be pleased that you have created a program that is cost-effective. In their fourth year of operation TAAC's worked with firms having an estimated total of 120,000 employees. The average cost per person of the technical assistance portion of the Program was $150 - less than a week of unemployment compensation. The per-head cost, using the entire Program budget of $27,500,000 as the total outlay (in fact, the budget was underspent and portions of it were for contingency set-asides or not related to firm assistance at all) was $229.00. There is not a jobs program in the country for a population anywhere near this size with costs that low. As we pointed out in the past, this is not only a business like response to business problems and a working response to workers' problems, but whereas other worker programs assist those who have already lost their jobs, this Program helps workers who have jobs to keep them.

Return on Investment

Just as notable, however, is a consideration of what the government gets back for this outlay. Setting aside the readjustments which firms are able to accomplish and their attendant contributions to local and regional economies, the employees alone make a significant contribution to the Federal tax base. Conservatively estimating an average annual wage of only $10,000, these workers account for $204,000,000 a year in Federal taxes and unemployment insurance. In one year alone this represents more than seven times the fiscal year 1983 budget for the Program, more than ten times the face amount of all loans made by the Program in calendar 1982, and 60 percent of all loans made between 1975 and 1982. If you wish to discount the tax estimate by half, the amount still exceeds the total of 1982 loans plus the fiscal year 1983 program budget by a whopping 330 percent. And these estimates do not inlcude corporate taxes, state or local taxes or other employment-related revenues, nor do they include the compounding of these figures in successive yearly iterations.

We do not consider this a subsidy program in the way that term is generally applied. The majority of loans (guaranteed) are at prevailing rates; the technical assistance is cost-shared and unlike a traditional jobs program or unemployment insurance, is offset by impressive tax returns.

We believe that for the number of firms and workers involved, the results achieved and the work still to be done that this has not been an expensive proposition. Nothwithstanding this, a good deal more is necessary.

General Economic Recovery as an Alternative to TAA

Will Economic Activity Make TAA Unnecessary?

In contrast to assertion that general economic recovery can or should replace TAA, we submit that TAA has itself been and should remain a vehicle of general economic recovery. In an Article in the March 21, 1983, issue of Fortune Magazine entitled "How to Foil Protectionism," Walter Guzzardi, Jr., reports that "virtually every scholar of international trade" is convinced that achievements under GATT "would not have been possible without the TAA." By comparison to the alternatives without it, Guzzardi concludes that "TAA was cheap." The article goes on to advocate a serious Adjustment Program whose description, perhaps unbeknownst to him, parallels the targets and components of the TAA Program for Firms and Industries as it is today.

In opening I mentioned the wide dispersion of affected firms in states throughout the country. In the early days of the Program these firms were noticeably within "smoke-stack" industries which some have described as dying. That is no longer the case.

According to the National Planning Association, since 1979 the aggregate proportion of sales by U.S. firms in ten industries dropped from 79% to 51%. What is most dramatic about this seemingly unsurprising shift is that U.S. high-technology firms suffered a greater decline than other U.S. firms.

As part of its response to trade imbalances, the Administration has proposed a new aggressiveness in exporting. Yet, by itself, exporting is not a sufficient and credible answer to the job loss and domestic industry unsettlement which has been created by imports. Recent declines in U.S. exports have contributed substantially to our current recession. In 1981, U.S. net manufacturing exports - historically a strong-point of U.S. Trade - fell a full $7,000,000,000. In the first half of 1982, they dropped further still, finishing with an actual deficit of more than $4,000,000,000. Although the Congress has responded with the Export Trading Company Act, which the International Trade Administration has called the single most important trade legislation in years, the U.S. Trade deficit will only be overcome if new initiatives and incentives are coupled with efforts to reposition those companies which can potentially produce for the economic market. And the time it may take to achieve this repositioning must be understood, because the factors contributing to the trade imbalance and attending economic dislocation seem to point away from rapid (some would even say foreseeable) recovery.

In an article entitled "Will The U.S. Become a Pauper Nation" in the February 28, 1983, issue of Forbes, Norman Gall, reporting on an interview with Martin Feldstein, Chairman of President Reagan's Council of Economic Advisors, points out that the U.S. is not only importing goods on a "grand scale" but Capital as well. From 1976 onward, the U.S. has experienced the longest consecutive streak of merchandise trade deficits since 1831-1839, when we were importing capital goods to build the Country. Feldstein estimates the magnitude of these deficits - projected to reach $75 billion in 1983 - will create a "lopsided" recovery, keeping trade dependent firms "relatively depressed". Feldstein foresees that "the rise in the trade deficit is also likely to reflect a higher level of imports, thereby slowing recovery among U.S. firms that compete with imports from abroad."

Twenty years ago the U.S. outspent both Japan and West Germany, its two leading international competitors, nearly four to one in real dollars for plant and equipment per manufacturing employee. Today the U.S. trails both of these countries in percent of GNP for capital formation, and Martin Feldstein does not expect any improvement. In Forbes, Feldstein says that "Deficits at current projected levels could reduce the rate of net investment in plant and equipment enough to preclude any increase in capital per worker. If this occurred, the process of increasing capital intensity would stop contributing to raising productivity and wages."

Clearly, the proposition that general economic recovery will be a more effective aid to import-impacted firms than the TAA Program has been or its continuation is expected to be, cannot be supported either by recent trade activity, projected trends or the Administration's own estimates of the situation.

Does TAA Artificially Interfere with Evolution of a Mixed Economy?

I have heard it said with some frequency that the service industry will take up our jobs slack, or that, in an updated version of the theory of comparative advantage, it is of little consequence if our basic industries constrict, atrophy, or die, because new high-technology industries will emerge to sustain the economy and maintain leadership in "knowledge"fields.

It is now clear that the U.S. is competitively challenged on almost every front and preeminence in any field is a tenuous proposition - especially if there is no public/private partnership involved in achieving or in maintaining it.

The machine tool industry, for example, was, until 1977, a net exporter of metal cutting and metal forming equipment, believed to be the finest in the world. The precision and efficiency of its tools was considered one of the reasons for the industrial strength of the U.S. In 1977, however, imports overtook exports, and by 1979 had captured more than 22% of the U.S. market. As the recession slowed production and capital equipment outlays among its customers, machine tools, a "lagging industry" in regard to plant capacity, was retarded in its efforts to adjust.

Now, at a time when the U.S. Computer Industry's leadership may be only as great as the development of the next silicon chip, the U.S. faces competitors who became positioned because they were able to stabilize their basic industries and are continuing to do so.

Industry Week has asked how long it will be before the computer industry and its high-technology counterparts are in the same boat as machine tools, steel, auto, textiles, apparel, or any number of other U.S. Industries.

The shift to a service industry base in the U.S., the theory of Comparative Advantage, and the U.S. attachment to "Free Trade" do not automatically produce answers to what productive capacity we should seek to maintain as a nation or the degree to which workers can be integrated in a "New" Economy during their productive lifetimes. Although, historically the U.S. has recognized the need of government to respond to macro-economic events in the national interest especially when the phenomena with which it is faced are features of the national policy of "competitor" countries, public-policy makers have been generally averse to picking "winners" and "losers" in a free enterprise system. Other countries have not been similarly averse to doing this. The Japanese, for example, have identified industries which have lost their competitive edge because of high energy costs or cheaper labor in newly industrialized countries, and have labelled these as "declining" industries. What distinguishes Japanese policy, however, is government help in shifting resources from ailing industries to healthy ones, eliminating capacity, and stabilizing a smaller number of companies in an industry so they do not eviscerate one another over smaller markets. The government accomplishes this by giving financial assistance, tax relief, and, in some cases, anti-monopoly exemptions to form long-term cartels.

The Japanese policy is completely consistent with that government's economic pragmatism in protecting its domestic industries from foreign incursions and supporting trading networks by a variety of means.

Japan's success has been attributed to a productive workforce and superior management. But Japanese manufacturers' export success is equally the result of the government's political treatment of industrial growth and foreign trade.

In this Country, such steps by the government would be clearly seen as a dangerous encroachment.The elements of the TAA Program for Firms and Industries, however, provide a mechanism which relieves our government from having to make distasteful and painful choices about "winners" and "losers", while at the same time, it provides the resources for firms and industries to undertake strategic evaluation of competitive market forces, on their own.

Through this Program, firms can research their markets, find out what their customers are ready to buy and then sell a product which is manufactured according to the latest technology and, sometimes, in new or refitted plants.

Continuing Need for TAA

Unless the United States Congress is prepared to allow important sectors of our industrial economy to slip away in unsettling convulsions, it must recognize that the machine tool industry, and others like it need time for their adjustment. They also need help, and a model for the kind of help that is possible is the Trade Adjustment Assistance Program for Firms and Industries which the President of the National Machine Tool Builders Association, Mr. James A. Gray, singled out in a recent editorial in National Metal Marketing as a resource which could contribute to repositioning his industry.

The loan feature of this Program has been heavily criticized and we have tried to contribute perspective on that issue. However, we should include an observation now being made by business leaders in an increasing number of forums.

"....if you can't borrow money because of today's interest rates and if you can't raise equity capital because the return is too low -- then how can you modernize your factories to improve your competitiveness during any breathing spell...", asks James A. Gray, in his American Metal Marketing editorial - "Perhaps you can't," he answers, "unless the government, because of the implications of our national security, takes the bull by the horns and makes capital available."

Another business leader, Mr. Malcolm Hopkins, Vice-Chairman, Chief Financial Officer and Director of St. Regis Paper Company, wrote in Business Week's October 25, 1982, issue that -

> "Since the ability to finance on a long-term basis has all but vanished - perhaps forever-and rates have been too high to encourage extensive intermediate financing, companies are simply refusing to participate at all in capital markets. This means that basic industries have decided not to raise capital, not to expand, not to modernize, not to produce new products, not to provide new jobs."

Mr. Hopkins concluded that: "As reluctant as U.S. corporate leadership is to have government intrude in the workings of the free market-and I share this reluctance-I think we must acknowledge the need for Washington to assist in the resuscitation of our basic industries."

Clearly, Mr. Chairman, we believe that Trade Adjustment Assistance is an important instrument of National Economic Policy. Not only would it be folly to abandon a program which has developed so well and cost so little, but at this time in our national life, the Program needs to be strengthened, even expanded.

I have enclosed with my statement a brief overview of projected employment changes due to imports within selected industry sectors. This is part of a preliminary summary of an examination of the most severely import-injured U.S. industry sectors, which is being conducted by Associated Research Analysis Corporation, a private consulting firm. The summary projects job losses of more than 130,000 from 1982-1984 in only five of the industries which were examined. Each of these five industry subsectors have firms or workers certified under the Trade Act or have had an increased import penetration ratio: Primary Metals, Fabricated Metals, Machinery, except Electrical; Electrical and Electronic Machinery; Measuring and Controlling Instruments.

Numerous other sectors, such as Footwear, Apparel, Textiles, Handbags, Handmade Gloves, and Leather Products - which have already experienced and will continue to experience huge impact from imports, are not included in this overview.

The figures on job loss and business decline are enough to spur extreme protectionist sentiments. We think that a "fair trade" and adjustment assistance alternative can be both credible and effective.

Improvements in the Trade Program

Even without expansion, the present Program can be improved by judicious amendment of the Trade Act of 1974. As your committees evaluates the provisions and purposes of The Act in regard to Trade Adjustment Assistance, we would like to provide you with some recommendations for change.

Here, I would like to mention a few of these areas:

I. Eligibility for Assistance

A. Certification of Eligibility for Assistance in now limited to firms who have already lost sales or production and employment. This is one of the reasons for earlier loan losses. If one objective of Adjustment Assistance is to compete in the worldwide marketplace, then we should be able to work with companies in "assaulted industries" before they have suffered too great a decline.

B. Similarly, we should be able to continue working with firms even though imports have not increased absolutely, as long as imports continue to occupy a major portion of the market. Presently, for example, we cannot get mushroom firms certified for eligibility since mushroom imports have not absolutely increased in the last two years - although the industry is devastated.

C. Firms which have had a major decline in sales of a critical product line - in either domestic or export sales - should be eligible, even though aggregate sales for the company may have improved. For example, a firm in Baltimore has had a precipitous decline in its OEM (Original Equipment Manufacturer) sales to domestic auto manufacturers. This one item represents 30% of its aggregate sales and 100% of all OEM sales. However, overall sales have picked up slightly. Yet, at a time when domestic auto content legislation is being considered in the Congress, we cannot help a domestic content manufacturer.

II. Linkage to the SBA

A. Under Section 256, consideration should be given to reversing the Secretary of Commerce's power to delegate all functions except certification to the SBA; so that the SBA could be delegated as a referral agent or even a certification agent from which the Trade Program would gain participating firms. SBA should not be delegated technical assistance functions under the Trade Act.

III. Information About and Promotion of the Program

A. Section 264 requires the Secretary of Commerce to study the likely impact on domestic firms from import problems being investigated by the ITC under Section 201.

Section 264(A)(2) requires the Secretary to determine the extent to which orderly adjustment of firms to the import competition being assessed by the ITC can be facilitated through existing programs that can be responsive to these problems. Right now there is no mechanism which links the trade program to the ITC. Section 264C requires that whenever the ITC makes an affirmative finding under Section 201B that increased imports are a substantial cause of serious injury or threat therof with respect to that industry, the Secretary of Commerce is obligated to inform firms in such an industry about which programs facilitate the orderly adjustment to import competition, as well as who provides asssistance to such firms.

A more active promotion of the Program, coordinating it with other resources would enhance it.

Thank you, Mr. Chairman - I appreciate your interest and urge your support.

Mid-Atlantic Trade Adjustment Assistance Center

May 24, 1983

Mr. John Shank, Professional Staff Member
United States Senate
Committee on Appropriations
Subcommittee on Commerce, Justice, State,
The Judiciary and Related Agencies
S-146A, Capitol Building
Washington, D.C. 20510

Dear John:

This letter conveys testimony requested from me at the conclusion of my April 6, 1983 appearance before the House Subcommittee on Commerce, Justice, State, The Judiciary and Related Agencies. I was asked for my judgement about whether additional monies could be effectively spent by the Trade Adjustment Assistance Program for Firms and Industries if the Subcommittee chose to make such monies available.

At the time, I expressed my belief that the Trade Program could, indeed, effectively use additional funds. I based this response on my experience with the increasing numbers of firms in the Mid-Atlantic region, my knowledge of the expanding activity in each of the other Trade Center areas - most notably in the West, the Mid-West and New England, and on the fact that the Program for Firms has been under budgeted for field operations.

I stated that present budget limitations meant that funds had to be so carefully husbanded for an increasing number of firms and industries that we could not fully respond to the legitimate needs of many eligible cases. Both the number of firms which can receive assistance and the extent of assistance which can be provided in each case are functions of the availability of technical assistance dollars. Not only has the number of firms increased, but the nature and sophistication of assistance has also shifted during the last several years to include far more companies in the $50,000,000 to $200,000,000 sales range (such as Harley Davidson) whose production and marketing structures require comprehensive projects.

At the same time, the number and sort of industry assistance grants has expanded. Already resources for newly ailing industries, such as machine tool builders, are difficult to allocate. At existing levels, diversity in industry grants will be more difficult to maintain since the Trade Subcommittee has proposed to increase the amount allowed for any single industry grant from $2,000,000 to $10,000,000.

To demonstrate where additional funds can be effectively spent, I am enclosing herewith a profile of the estimated fiscal year 1983 and fiscal year 1984 demand for technical assistance dollars to firms and industries. These estimates clearly exceed the present appropriation.

In sum, after two years of declining certifications, brought about by a variety of disincentives and uncertainties, the number of newly certified firms in fiscal year 1983 will equal the highpoint which was reached in fiscal year 1980 when the budget to support this volume was

99% higher than it has been for the past two years. The attached summary shows that fiscal year 1983 estimates of technical assistance needs, based on present activity exceed the fiscal year 1983 TA allocation by 50% and the fiscal year 1984 estimates exceed this year's allocation by more than 90%.

Although these percentages are high, the dollar increases to the present budget levels into which they translate are not.--$6,000,000 for technical assistance in FY 1983 and $13,000,000 for FY 1984.

If OTAA is allowed to spend in FY 1983 the $5,118,000 which was not spent from its budget in FY 1982, this will go far toward covering its FY 1983 direct assistance needs and will allow it to undertake eleven industry projects which cannot otherwise be done. These industries include cast metals, wool growers, machine tools, semi-conductors and an omnibus group represented by an Hawaiian businessmen's association.

We respectfully urge the Subcommittee to allow such additional monies for the Trade Adjustment Assistance Program for Firms and Industries as can be made available, in order to cover the estimated technical assistance needs of the Program.

Sincerely,

Daniel J. Fennell
Director

FY-83 and FY-84 Trade Adjustment Technical Assistance Program Needs

	FY-83	FY-84
Assistance to trade-impacted firms (TAACs)	$13,200,000	$19,300,000
Industry Assistance	5,800,000	6,700,000
	$19,000,000	$26,000,000

- The number of firms expected to be certified in FY-83 (460) is more than double the number of firms certified during FY-82 (215). It is estimated that half the certified firms submit acceptable adjustment plans to ITA.

- The number of adjustment plans (recovery strategies) expected to be accepted by ITA during FY-83 (180) is 59 percent higher than the number of adjustment plans accepted during FY-82 (113).

- The estimated cost of technical assistance to implement the recovery strategies outlined in adjustment plans has been increasing at a 10 percent annual rate since 1981 (from a total Government and firm cost of 66,000 per firm in FY-82 to an estimated $73,000 per firm during FY-83). This increase in average cost is due to more sophisicated and larger TAAC client firms in a broader spectrum of industries, including more high technology firms.

- The FY-83 firm assistance cost estimates are computed as follows:

  o It is estimated that 180 firms will submit acceptable adjustment plans, and that 145 of these firms will apply for trade adjustment assistance to implement their recovery strategies at an average Government cost of $55,000 per firm, or a total Government cost of $8.0 million.

  o Post-Certification assistance (diagnostic studies and adjustment plan preparation) is expected to be provided to 400 firms at a average Government cost of $8,000 or a total Government cost of $3.2 million.

  o In addition, 600 firms are expected to be helped to complete certification petitions at an average cost of $500 per firm, or a total cost of $300,000.

  o The administrative cost of providing the above assistance to firms through the TAACs is estimated to be 15 percent of the technical assistance cost, or $1.7 million.

- The FY-84 firm assistance estimates are computed as follows:

  o It is estimated that 250 firms will submit acceptable adjustment plans and that 200 of these firms will apply for implementation assistance at an average Government cost of $60,000, or a total Government cost of $12 million.

  o Post-certification assistance is expected to be provided to 500 firms at an average Government cost of $8,800, or a total Government cost of $4.4 million.

  o In addition, 800 firms are expected to be helped to complete certification petitions at an average cost of $550 per firm, or a total cost of $400,000.

  o The administrative cost of providing the above assistance to firms through the TAACs is estimated to be 15 percent, or $2.5 million.

- Trade adjustment industry assistance projects have already been approved during FY-83 for the hand tool and apparel industries, as well as funding for a joint machinery manufacturers program. Discussions with another 11 industries are underway for FY-83, and if funded will require a Federal investment of $3.3 million.

- If less than the required level of funding is provided during FY-83 and FY-84, fewer firms and industries in need of trade adjustment assistance will be able to be helped, and/or the level of aid to each assisted firm or industry will have to be reduced.

A STATEMENT ON THE BENEFITS OF TRADE ADJUSTMENT ASSISTANCE

Mr. Joel Rabin
President, Miami Footwear Corporation

My name is Joel Rabin. I am president of Miami Footwear Corporation, located in Miami, Florida. I am a native Floridian, a graduate of the University of Florida and became President of the Company in 1974, succeeding my father. I have spent nearly all of my working life at Miami Footwear, working in all functional areas of the company.

Miami Footwear was founded in 1946 as a manufacturer of slip-lasted footwear and shifted to cement-lasted construction in the late fifties. The company is known as a producer of high quality, medium-high priced ($75-$100 at retail, depending on material) women's fashion footwear of both the open (sandal) and closed type. The footwear we produce are made of leather and other specialty materials such as snakeskin. We normally do not use man-made material in our products, except for a few specialty items. More recently the company has designed and marketed a line of lower-priced fashion thongs and other type footwear which are manufactured in other local plants.

Imports began seriously impacting the company's specific product areas and markets in the seventies, and from 1974 to 1978, the company's unit sales volume declined by nearly 30%. Employment had declined from a high of about 280 to under 200. The company incurred losses in 1978, and was relying heavily upon short-term secured debt at rates nearly 6% above prime, and with severe limits on the amount that could be borrowed.

In 1978, the company filed a request for Trade Adjustment Assistance with the Department of Commerce and the company was certified as eligible to apply for such assistance, which it did.

Through the Trade Adjustment Program, a consulting firm, experienced in the footwear industry, was provided to assist the company in developing a strategy to overcome the impact of imports. The consultants conducted a diagnostic study of all facets of the company's operations and, together with management, developed a recovery plan which included the following elements:

1. A marketing plan which included consolidation of styles produced at the company's plant plus methods of obtaining new classes of customers.
2. Plan and implement improvements in factory scheduling, purchasing and inventory control.
3. Changes in factory layout and equipment uitilization.
4. A financial plan which would provide the company with the resources to implement the overall plan.

The plan was approved by the Department of Commerce and the company was granted both technical and financial assistance. The technical assistance consisted of 12 person-months of consultant time to assist the company in implementing various aspects of the recovery plan. Financial assistance consisted of a $1 million direct term loan in two stages from EDA in conjunction with a revolving line of credit provided by the private sector of up to $1 million without a government guarantee. Up to this time, the company has successfully met all of its obligations on the government loan on a current basis.

The company showed marked improvement in operations after entering the Trade Adjustment program. For example, during one selected period, the company showed

1) An 11% increase in employee's average hourly pay

2) An 18% increase in average pairs per hour

3) A 5% decrease in labor cost/pair

Sales volume in 1981 was nearly $7 million, and in 1982, $7.8 million, compared to $4.2 million in 1978. Employment at the company's plant, plus a local subcontractor's plant where certain new styles are produced, was about 280 as compared to under 200 total in 1978. The company's employees consist primarily of Spanish-American workers, the majority female, in the Miami area.

Up to this time, the company has successfully met all of its obligations on the government loan on a current basis.

Despite these successes, imports are still the major competition to our company and there are likely further actions we must take to remain competitive. With the recent decline in retail sales, import competition in the fashion lines are taking an increasing share of the market, and domestic manufacturers bear the brunt of the decline.

The Trade Adjustment Assistance Program has certainly been for us a cost-effective way to give us the opportunity to adjust to a free trade policy. There is no other way the company could have obtained the technical and financial assistance necessary to make the improvements we have. I strongly recommend to the Committee that this program be continued.

PREPARED STATEMENT OF MARK W. DUMARS

Board Chairman and President of TACTEC Systems, Inc.

I very much appreciate this opportunity to express the opinion of TACTEC Systems, Inc. concerning the activities of the Trade Adjustment Assistance Council (TAAC). We have been involved with TAAC for a number of months and believe that TACTEC's experience with the activities of TAAC should be helpful to this sub-committee in its evaluation of the TAAC Program.

This report has been divided into four sections:

I. A brief background on TACTEC and the industry in which it operates.

II. Factors having a negative effect on TACTEC's viability

III. The involvement of TACTEC with TAAC

IV. The importance of TAAC assistance to TACTEC

I. Background on TACTEC

TACTEC Systems, Inc. was incorporated in January 1981 and acquired the land mobile radio operations of RCA Corporation in March 1981. RCA had reported a history of unprofitable operations and had expressed its intention to close down its land mobile radio operations.

The land mobile radio industry consists primarily of two-way, dispatch type radio service. Users of two-way radios include agencies of Federal, State and Local governments, public utilities and companies in a variety if industries which require prompt communication capabilities in order to maximize operating efficiencies. The price range for such radios, including both mobile (installed in vehicles) and portables (hand-held), is approximately $600 to $2,200. The U.S. market is estimated at approximately $1,500,000 and the International market at $2,500,000, with a projected annual growth of about 15%. The high-priced end of the U.S. marketplace is dominated by Motorola and GE, with approximately 20 companies active in the low-end of the U.S. marketplace, including a number of non-U.S. companies.

TACTEC's annual revenues for its fiscal year ending February 28, 1983 will approximate $45,000,000. The Company employs about 600 individuals, a decline from about 900 employees at the time the RCA operations were acquired. The Company was profitable in its initial fiscal year, but is expecting to incur a loss in the current fiscal year as a result of a significant decline in sales during this recessionary period.

II. Factors negatively affecting the viability of the Company

The owners of TACTEC Systems, consisting of ten private investors (all US citizens) acquired an unprofitable division of a large conglomerate. It was immediately apparent that the Company's weaknessess were significantly greater than that which had been anticipated during the acquisition proceedings. Specifically, the land mobile radio operations of RCA suffered from (a) weak management, (b) an aged product line that had not been supported due to a continuing decline in R&D, (c) an inefficient and high-cost manufacturing operation, (d) a volatile labor union situation, (e) unhappy customers who had felt the brunt of RCA's lack of interest in continuing the state-of-the-art in its product line, (f) a rudimentary management information system, (g) the intrusion of foreign competitors in the low-end of the two-way radio market, the fastest growing segment of the market, and (h) overall low performance standards of the employee force as a whole. This situation was further aggravated by the new company being somewhat under capitalized.

III. The involvement of TACTEC with TAAC

After a series of discussions between representatives of TAAC and TACTEC, it became apparent that TACTEC has the ability to support its contention that its operations had been and were being adversely affected by foreign imports. TACTEC representatives then prepared the various reports that were necessary to obtain certification, and having received such certification, participated with TAAC in the process of preparing REQUESTS FOR PROPOSALS from industry consultants and evaluating the proposals. Throughout this process TACTEC representatives were in frequent contact with officials of TAAC, and their assistance was invaluable in enabling TACTEC to successfully utilize the Trade Adjustment Assistance Program as intended.

TACTEC is currently having its new marketing strategies evaluated by independent industry consultants. Through a series of joint venture and sub-contracting arrangements, TACTEC has positioned itself so that it will have available during 1983 state-of-the-art products in the new cellular and trunking technologies, and will also add new low-end products to its product line whereas previously only high-end products had been offered by RCA. A consulting project is currently underway to evaluate the marketing strategies associated with these new products. Also, two consulting projects are pending which would assist the Company in other important areas - Manufacturing and our Management Information Systems.

Further, TACTEC has entered into discussions with officials of TAAC relative to availing itself of the loan provisions of existing legislation, in order to assist in the financing of the machinery and equipment, inventory and marketing cost requirements for the new products.

IV. The importance of TAAC assistance to TACTEC

The Company is in a turn-around situation that unfortunately was undertaken during the worst recessionary period in over 50 years. Significant cost reduction efforts, including employee layoffs and a 15% across-the-board salary reduction, have been made in order for the Company to remain viable. In these circumstances it is difficult for TACTEC to justify engaging outside consultants to assist it, regardless of whether such expenditures would be expected to generate cost savings in the future. The Company's current financial condition requires that it emphasize its short term cash position, unfortunately at the expense of the future. Thus, without the assistance of TAAC, TACTEC would not have been able to avail itself of the consulting assistance that it considers important in insuring that the marketing strategies associated with the Company's new products will maximize the Company's profitability.

We believe this assistance has been important to TACTEC's survival and that it represents an appropriate use of tax-payer funds for the following reasons:

a. TACTEC's survival (through maximizing the profitability from its new products) is important in maintaining existing jobs in a section of the country that is economically depressed

b. It helps to resist further encroachment by Japanese and other foreign competitors into the US telecommunications market

c. The combination of existing radio electronics capabilities with microprocessors has continued TACTEC's position as a high technology company. This is considered most important in our country's efforts to maintain its edge in the high technology area, and specifically in the Western Pennsylvania area which is attempting to emphasize high technology

d. TACTEC's survival serves as a counter-weight to the monopoly position of Motorola in this industry

e. Although in a relatively modest way, TACTEC is helpful to the U.S. balance of payments in that it exports over 15% of product sales

* * * *

Again I thank you for this opportunity to express TACTEC's views on this important matter. I would be pleased to answer any questions you may have at this time or in the future.

PREPARED STATEMENT OF DOMENIC DIPAOLA

MANAGING DIRECTOR

LEATHERGOODS, HANDBAGS, PLASTICS, & NOVELTY WORKERS UNION

Mr. Chairman - Members of the Subcommittee, My name is Domenic DiPaola, Managing Director of the Leathergoods, Handbags,Plastics and Novelty Workers Union, Local #1,AFL-CIO.

I am appearing here today on behalf of the union membership and with the full support of my Executive Committee which consists of men and women who represent a complete cross-section of our handbag industry. An industry that includes many products such as reptile, leather, vinyl, fabric, metal findings, zippers, thread and glue.

Some 200 Ameircan manufacturers have labor contracts with our union. Our union contracts are with firms located from Rhode Island to Florida and Puerto Rico, and from New York to California; from the largest manufacturer doing over $50 million dollars per year to shops doing less than $1/4 million dollars per year.

Ten years ago, there were approximately 750 establishments producing handbags in the United States. Today there are approximately 400; a decline of almost 50%. Total employment is now estimated to be less than 20 thousand. Our international union membership dropped 44% from 18,000 to 10,000 in that same period of time.

The decline in U.S. handbag shipments, the decine in U.S. handbag producers, and the decline in U.S. handbag workers can only be attributed to the dramatic increase in handbag imports. Imports have gone from 40 million units in 1967 to an estimated 180 million units in 1982; a 455% increase! During that period of time, imports as a percentage of the domestic market has increased from 29% to 83%. And if 83% of the products come from overseas, 83% of the jobs have gone overseas!

When I started as a pocketbook framer almost 40 years ago, most of the workers in the handbag industry were either of Italian or Jewish decent. With the upward mobility of the minorities, most of our workers are now either Blacks or Hispanic. They too need the opportunity to advance.

The American handbag industry and its workers are down but not out. There might not be an American handbag industry today if it were not for the Trade Adjustment Assistance program. In the Metropolitan New York area, 21 handbag producing firms received financial assistance; perserving and creating thousands of jobs. More important, hundreds of firms have received technical assistance in the form of marketing, management, finance and production assistance to help them adjust to increasing import competition. In addition, these handbag firms have then been able to maintain their credit and have obtained additional private financing that would not have been provided if it weren't for the Metropolitan New York Trade Adjustment Assistance Center.

After EDA determined that imports were severely impacting the handbag industry, the National Handbag Association in conjunction with the Leathergoods, Handbag, Plastics and Novelty Workers Union, Local #1, AFL-CIO received a U.S. Department of Commerce grant to fund an "Industry - Wide Recovery Program". This grant was supplemented by cash and in kind contributions from both the industry and the union. This recovery program aimed at 5 specific goals:

(1) Increased efficiency and productivity of the domestic industry through the design of a cost/price accounting system, providing a how-to manual distributed to all members of the industry.

(2) Improvement of the product and design forcasting capabilities through the organization of a fashion oriented education program.

(3) Development of a strategic marketing approach through an extensive market study on consumer and buyer attitudes including test marketing was performed throughout the United States and made available to all American manufacturers.

(4) The development of a comprehensive export manual, which has significantly contributed to a 40% rise in handbag exports in the last four years.

(5) The last but surely not the least important accomplishment was the extablishment of a technical school in New York to train young talented people to design and make handbags. Only the influx of young people with new ideas and concepts can make our industry prosper.

Largely due to the success of this industry-wide recovery program, there is excitement and hope in the air. Hope for the industry and hope for its workers. But this hope continues to depend upon the Trade Act of 1974. Our firms and the industry needs the cooperation of government. We need infusions of technical know-how to secure and broaden our ability to compete with imports. Support by this Subcommittee to continue the Trade Act program is essential for the survival of this hundred year old industry. Union Local #1, of which I am proud to be associated as its Managing Director, is the second oldest labor union in the United States. We are 98 years young. We are asking you to help the industry help itself. Only through cooperative effort between labor, management and government can this industry turn itself around and provide, preserve and create meaningful long-term jobs for Americans.

The benefits received by the handbag industry through the Trade Act of 1974, are largely responsible for its survival in the United States and for the survival of its workers. The Trade Act of 1974 has given us hope. It has afforded the industry an opportunity to improve its competitive position through research and practical application of technical assistance. I believe a foundation has been carved out for the American handbag industry. We cannot let this momentum die. There would not be an American handbag industry today if it were not for the Trade Act of 1974.

Over 90% of the workers in this industry are minorities. They plead for your support; for the continuation and expansion of the Trade Adjustment Assistance program for firms and industries, because the Trade Act works.

The Trade Act of 1974 works. It works for industries and firms. The Trade Act requires that firms look after the best interests of the employees; and it works for the employees. Let's look again at the facts. In the past 15 years, handbag imports have increased (due to our "free trade" policy) 455%. During that same period of time, during which imports have garnered 83% of the U.S. market, approximately 50% of our handbag factories and approximately 50% of our handbag workforce have been eliminated. Although the American "free trade" policy has taken away a goodly piece of our business, the Trade Act of 1974 for industries and firms, as administered by the International Trade Administration, has now stabilized the surviving handbag industry. It has assisted them to diversify, find new markets and a niche where import competiiton will have little or no affect upon it. It has helped the firms become more efficient and therefore helped many firms create additional working capital within. The Trade Act of 1974 works.

Our workers totally support the continuation and expansion of the Trade Adjustment Assistance program for industries and firms. This program for industries and firms looks after the best interests of the American worker. The American worker does not want a hand out. It only wants a hand.

PREPARED STATEMENT OF ROBERT B. LEDBETTER, JR.

VICE PRESIDENT - FINANCE

FORMATIVE PRODUCTS COMPANY

BACKGROUND

Formative Products, founded in the State of Michigan in 1955, manufactures die molds, welding and assembly fixtures, jigs, gages, molds and special machines. In addition, Formative has a unique process to form nickel tools and parts by chemical vapor deposition.

In 1980, Formative Products was primarily oriented to attract business from the automobile industry. Sales for the year ended June 30, 1980, were $8,106,000, down 19%, and employees numbered 116, down 38%. A major factor in Formative's decline was increased competition from companies located in Canada. In the fall of 1980, Formative Products was certified to be eligible for Trade Act Assistance.

TRADE ACT ASSISTANCE PROGRAM RESPONSE

In November of 1980, technical assistance was initiated through the Midwest Trade Adjustment Assistance Center. A diagnostic analysis and an adjustment plan were issued in April of 1981.

The diagnostic analysis outined the following problems:

A) An increase in competition from Canadian companies who pay lower wage rates, receive sizable government subsidies for exports and have a favorable monetary exchange.

B) Capital expenditures for new tooling programs in the automobile industry were put on hold, or cancelled as cash flow tightened.

C) Lack of, or poor procedures for, job cost estimation, job cost analysis, marketing analysis and job quotation review.

The adjustment plan emphasized that Formative must expand its services beyond the automotive market. The plan also suggested that Formative improve its manufacturing capability. Special recommendations included:

Marketing

A) Perform a marketing study to investigate opportunities in the business machine, appliance, furniture, housewares, defense and commercial aerospace markets.

B) Hire a sales manager to supervise entry into new markets and to maintain existing markets.

C) Develop a sales analysis/marketing research capability to identify unprofitable ventures and to add those of genuine promise.

D) Organize a promotional/advertising program that is cost effective, successful, and has a built-in follow-through procedure.

Manufacturing

A) Establish an engineering department.

B) Formalize the estimating procedure.

C) Update equipment to increase technological capacity.

Financial

A) Review quotations as to profit potential and downside risk.

B) Approve change orders, amendments, revisions and insure that all additional costs are recognized and invoiced.

C) Improve the leveraged position of the firm.

In addition to the recommendations just outlined, the adjustment plan evaluated the organizational structure, identified strengths and weaknesses and made recommendations for improvement.

After reviewing the diagnostic analysis and adjustment plan, Formative implemented several of the recommendations and set a timetable for several of the others.

Also, Formative retained the Midwest Trade Adjustment Assistance Center to do a market study.

The market study:

A) Evaluated the defense, agricultural equipment, commercial aircraft, computing and office equipment markets and several others.

B) Identified competition.

C) Defined the size of each market and estimated the potential market share for Formative.

D) Identified market entry requirements.

E) Identified key contacts at several companies in each market.

In summary, the Trade Act Assistance Program responded over a two year period with three valuable documents; a diagnostic analysis, an adjustment plan and a market study.

IMPLEMENTATION

As each of the documents were issued, Formative was able to follow a majority of the recommendations. A major factor in Formative's ability to implement successfully was the ongoing assistance provided by the Midwest Trade Adjustment Assistance Center.

RESULTS

With the help of Trade Act Assistance, Formative Products has diversified, has improved its financial strength and has been able to compete with imports in its old markets. Examples of Formative's improvements are:

A) Sales have increased to $10,715,000 for fiscal year 1982, up 32%.

B) Employment has increased to 138, up 18%.

C) Increased marketing and improved efficiency of its chemical vapor deposition process. After three years in which sales were $150,000 each year, sales in this division are expected to be greater than $1,000,000 in fiscal year 1983.

D) During the first nine months of fiscal year 1983, automotive related sales are expected to be 78% of sales, down from 95% in fiscal year 1980.

E) The company has become a leader in manufacturing high technological machines, many of which contain robotics or flexible automation concepts. Examples of this include computerized gaging and checking fixtures, computerized balancing equipment and automatic transfer equipment.

F) Finally, Formative has modernized its facility to include a computer aided multi-axis machining center.

ANALYSIS

Trade Adjustment Assistance is a valuable program. The key to this program is that it provides technical assistance as well as financial assistance. If Formative Products and similar companies were to try to get such assistance on the open market, the costs would be extremely prohibitive. However, as a result of Trade Adjustment Assistance, Formative was able to recover from damage by foreign competition, save jobs and fight back. Trade Adjustment Assistance works.

METRO NEW YORK TRADE ADJUSTMENT ASSISTANCE CENTER

STATEMENT OF PAUL RADOW, METRO NEW YORK PAC

TRADE ASSISTANCE PROGRAM

Senator SPECTER. I would like to return to Mr. Radow.

Mr. RADOW. Thank you, Senator. My name is Paul Radow. I am the director of the Metro New York Trade Adjustment Assistance Center.

Being that the committee has my written testimony, including case studies, my testimony today will be most visibly short. The importance of the TAAC or the communities it serves goes beyond the dry statistics.

The trade assistance program is more than technical assistance and much more than financial assistance. It is a hope and source of confidence to firms and working industries, confidence in the American economy which has been given credit for convincing this country that it is not starting into a depression from its recent economic recession.

It is little understood in intangible factors which TAAC supplied and, when added up, help create this confidence. Being Mr. Dan Fennell has spoken about the very statistics and the importance that you suggested, I also want to mention that in the State of New York, the assistance we supplied the firms in the State of New York has preserved 18,000 jobs, and it has created them. There is another important factor: A minimum of an additional 10,000 jobs.

Continuing on with what I wanted to say, in a recent Newsweek article, it said that the American manufacturers are losing markets both at home and abroad; businessmen are seeking special favors from government. Executives as diverse as David Mahoney or Morton-Simon and Lee Iacocca of Chrysler Corp. are beginning to call for a broader industrial policy so as to restore some industrial losers to health.

"The idea," said Du Pont Chairman Edward Jefferson, "is for us to continue to make those things we use, wear, live in and travel in, to make them more efficient rather than to abandon their production * * *" to imports.

"The free market should be relied on as much as possible, but where you have special difficulties that result from management or government actions, you don't want something to go down the tubes because of that."

Trade adjustment assistance can help American industries from going down the tubes. It can help put out fires and do an excellent job at preventive maintenance.

If, on the other hand, we don't try to help, then the United States might be added to that list of countries that were once so very economically powerful.

I know it is a very strong statement, but I really believe it.

It was not so long ago that many influential businessmen and people in and out of Government were emphatically stating that the trouble with business today in the United States is too much government in business. They are now saying that they cannot compete with imports because foreign competitors have an unfair advantage. American firms are complaining that foreign firms are assisted unfairly by the country's industrial policies and assistance and so forth.

If Government activism is such a bad thing, why do our foreign competitors get so much benefit from it?

Therefore, if Government helpfulness helps, then Americans are going to need a helpful government utilizing a wide variety of tools to intervene in the economy where necessary.

Trade adjustment assistance for firms and industries is such a tool. It helps firms help themselves. It is also a proven asset for workers.

The trade adjustment assistance program is in place and is working. Experience has fine-tuned it, and now it only needs a solid sendoff by Congress and the administration.

An expanded and amended Trade Act of 1974 will generate excitement and provide hope for American industry. It will bring confidence to firms and workers alike. The American worker and the American firm do not seek handouts. They only want a hand that is helping.

[The prepared statement of Paul Radow follows:]

PREPARED STATEMENT OF PAUL RADOW

DIRECTOR

METRO NEW YORK TRADE ADJUSTMENT ASSISTANCE CENTER

Mr. Chairman, my name is Paul Radow. I am the Director of the Metro New York Trade Adjustment Assistance Center (TAAC). The center is staffed by business and management professionals to assist firms and industries in New York City and Long Island adversely affected by imports. Those firms adversely affected by imports, are assisted in accordance with Chapter 3, of Title II of the Trade Act of 1974, and as amended.

Metro TAAC is funded by the U.S. Department of Commerce, International Trade Administration, through a cooperative agreement with the Institute of Public Administration, a non-profit educational and research organization and is operated in cooperation with New York City's Office of Economic Development and Planning and similar government agencies in the counties of Long Island.

I am appearing today as the Vice President of the Industrial Policy Council, a non-profit organization that was recently formed to support an effective and sensible national industrial policy as a means to ensure the industrial health of the United States. I am also appearing today as a Business Development representative of the City of New York, my employer. New York City, while noted for its banking and commerical enterprises, considers this program a vital tool in assisting its 18,000 manufacturing establishments, employing 459,000 people. The City supports Trade Adjustment Assistance directly by contributing my salary and overhead expenses and indirectly by offering a wide varitey of economic development services to TAAC clients.

Finally, at the suggestion of Senator Alfonse D'Amato and with the permission of the New York State TAAC located at the State University of New York at Binghampton, I am appearing as a representative of both it and Metro New York TAAC to describe Trade Adjustment Assistance efforts in the entire State of New York to the committee.

We have provided Trade Adjustment Assistance to New York State firms as follows:

330 - No. of Firms Receiving Implementation Technical Assistance
$2,242,000 - Total Amount of Technical Assistance Provided
91 - No. of Firms Receiving Trade Act Loans or Loan Guarantees
$81,311,000 - Total Amt. of Financial Assistance from the Dept. of Commerce

$10,255,000 - Total Amount of Non-Dept. of Commerce Financial Assistance
17,903 - Total No. of Employees Jobs Preserved

The Department of Labor operates the Trade Adjustment Assistance Program for workers while the Department of Commerce does the same for firms and industries. It is important to note that our program - assistance for firms and industries - has preserved approximately 18,000 jobs by helping the companies survive and adjust to foreign competition. In addition, at least 10,000 new jobs were created at the firms receiving Trade Adjustment Assistance in New York State.

The importance of the TAAC to the communities it serves goes beyond the dry statistics. For instance, New York State TAAC assisted a processed Eggs manufacturer by providing $20,000 cost-shared technical assistance in the areas of marketing, engineering and data processing. What is significant is that while the TAAC was working closely with the firm's management to develop a business plan it also worked closely with the firm's creditors to restructure its debt within its means to repay. It worked. The firm has fully adjusted to import competition.

Another success, not noted, but proudly provided by Metro New York TAAC, is the story of a women's intimate apparel manufacture. The intimate apparel manufacturer received $90,000 cost-shared technical assistance which included the provision of a diagnostic review and the development of a viable recovery strategy. The key features of the recovery strategy were to upgrade the firm's product line and customer base. Technical assistance was provided to reduce production costs.It was anticipated that a $1 million trade act loan would be needed to implement the plan. In this case, trade adjustment assistance was instrumental in turning the company around with technical assistance, while the diagnostic review and business plan was utilized by management as a tool to sell the company to a large conglomorate. This enabled the company to generate the needed additional working capital essentially from within, rather than from a government loan.

The detailed case studies mentioned above are attached to this testimony.

The TAAC's also provide assistance to industries which must also be recognized as an important contribution to individual firms. Take the case of the Handbag industry. In 1967, the year that the Kennedy Round was concluded, the quantity of handbag imports accounted for 29% of the domestic market. Now, fifteen years later, imports account for 83% of the domestic market. Few, if any, manufacturing industries in the United States suffer from an import impact of this magnitude. Yet the decline in the number of U.S. handbag manufacturing firms since 1975 has only been 10% (444 to 400). A primary reason for this recent stability has been the benefits all the firms received through Trade Act technical assistance provided to the handbag industry as follows:

- Design of a cost/price accounting system.
- Organization of a fashion oriented education program.
- Development of a strategic marketing approach.
- Development of a comprehensive export manual.
- Establishment of a technical school to train talented people to design and make handbags.

Farmers are producers and if certified are also elligible to receive the benefits of the Trade Act. Six onion growers were recently certified eligible to receive benefits provided in the Trade Act of 1974. Many other farmers are beginning to establish eligibility. An industry-wide approach is being considered as a cost effective way to assist these impacted producers of vegetables to help them survive and prosper.

The industry-wide plan is as follows:

- Organize the farmers into a unified force such as a co-op or a consortium.
- Restructure their financial resources.
- Diversify the growers in accordance with market analysis.
- Develop flexibility for timely responses to changing market conditions.

In addition to the industry-wide assistance, the growers are planning to utilize technical and financial assistance to improve their individual operations. They are now starting the new planting season with confidence.

The Trade Adjustment Assistance Centers are mandated to supply timely, professional advice to their clients. They are also a friend to the firm.

The assistance normally rendered by the TAACs to the firms and industries previously described is not uncommon. It is also not uncommon to hear Domenic DiPaola, Executive Vice President of the International Leather Workers Union, AFL-CIO say, "There would not be an American handbag industry today if it were not for the Trade Act of 1974." It is truly an accomplishment that a significant segment of this American handbag industry has been helped to adjust and survive in light of the tremendous flood of imports.

The Trade Act Program is more than technical assistance and more than financial assistance; it is hope and a source of confidence to the firms and the workers. Confidence in the American economy has been given credit for preventing this country from sliding into a depression from the recent economic recession. Its little understood and intangible factors which the TAACs supply, when added up, help create this confidence. And confidence is contagious.

"Talking Up An Industrial Policy" is the title of a recent NEWSWEEK article. It is so appropriate to this subject matter, that a portion of it follows:

> The recession seems to have ended and inflation is on the wane, but in the eyes of some businessmen, the American economy is racked with degenerative disease; the country's industrial base is shattered, and manufacturers are losing markets both at home and abroad. Businessmen have never been above crying wolf when seeking special favors from government; now executives as diverse as David Mahoney of Norton Simon and Lee Iacocca of Chrysler Corp. are beginning to call for a broader "industrial policy" - frequently a program of government planning, protective trade measures and tax concessions or even subsidies to restore some industrial losers to health. "The idea," says Du Pont chairman Edward Jefferson, "is for us to continue to make those things we use, wear, live in and travel in [and] to make them more efficent, rather than to abandon their production, giving it over to others elsewhere in the world".---"The free market should be relied on as much as possible,"he says. "But where you have special difficulties that result from management or government actions, you don't want something to go down the tubes because of that".

Trade Adjustment Assistance can help American industries from going down the tubes. It can help put out fires and do a good job at preventive maintenance as well. If, on the other hand, we don't try to help, then the United States will be added to the list of countries that were once economically powerful.

In that same April 4, 1983 Newsweek magazine, Lester C. Thurow stated, "American firms can retreat to the second hand status of being importers of foreign made products if they wish, but America cannot afford to retreat with them". As American production goes overseas, American jobs go overseas, and the American markets will follow.

It was not so long ago that many influential businessmen, and people in and out of government were emphatically stating that the trouble with business in the U.S. is, too much government in business. Now they are saying that they can't compete with imports because foreign competitors have an unfair advantage. American firms are complaining that foreign firms are assisted unfairly by their countrys' industrial policies re: government planning and research, protective trade measures, tax concessions, low or no interest loans, subsidies and grants. "If government activism is such a bad thing, why do our foreign competitors get so much benefit from it."

If government helpfulness helps, then Americans are going to need a helpful government utilizing a wide variety of economic tools to intervene in the economy where necessary. Trade Adjustment Assistance for firms and industries is such a tool. It helps firms help themselves. It is also a proven asset for workers. The Trade Adjustment Assistance Program is in place and is working. Experience has fine tuned it and now it only needs a solid send-off by Congress and the Administration. An expanded and ammended Trade Act of 1974 will generate excitement and provide hope for American industry. It will bring confidence to firms and workers alike. They all plead for the continuation and expansion of the Trade Adjustment Assistance program. The American worker and the American firm do not seek handouts. They only want a hand. LETS HELP.

METRO NEW YORK TRADE ADJUSTMENT ASSISTANCE CENTER

CASE STUDY

Flexnit Company, Inc., currently a $25 million manufacturer of women's intimate apparel, was certified eligible to apply for trade adjustment assistance in late 1979. Profits as a percentage of sales had declined to about one third the level attained a decade earlier. The firm's weakening financial condition and increasing imports threatened the firm's viablity and the continued employment of its 750 workers located in New York, North Carolina, and the Caribbean.

With the help of a diagnostic review and advice provided by Metro New York TAAC, the firm prepared a recovery strategy. The key features of the recovery strategy were an upgrading of the firm's product line and customer base in order to position the firm as a fashion leader,additional technical assistance to reduce production costs, and a government loan to provide one million dollars of working capital.

Flexnit has successfully implemented its recovery plan and achieved the key strategic objectives necessary to ensure its continued viability and position as an employer of 750 people. Sales have increased almost 50% in the three years since certification, and profits as a percentage of sales have tripled. Equally important, the firm has been able to finance its recovery without a government loan. Because of the firm's success and its sound business plan and in-depth diagnostic review, it was recently acquired by Consolidated Foods Corp., a multi-billion dollar well capitalized conglomerate who will be able to provide all the financial assistance Flexnit will need.

Trade Adjustment Assistance was instrumental not only in Flexnit's recovery, it (the diagnostic review and business plan) was also utilized as a tool to sell the company to Consolidated Foods, thereby enabling Flexnit to generate working capital essentially from within rather than from a government loan.

Engagement Summary

NEW YORK STATE TRADE ADJUSTMENT ASSISTANCE CENTER

Draper Egg Products
Dryden, NY
607/844-8674
President: Roy Draper

Products: Processed Eggs, Institutional Feeding Programs

Background

The firm was incorporated in 1969 after operating as a sole proprietorship in prior years. Gross revenues reached in excess of $1,000,000 in 1976 and declined to three-quarters of a million dollars by 1978 due in large part to foreign competition. The majority of sales came from processed eggs (frozen eggs, yolks and whites) sold to institutional users. Imported eggs arriving by ship caused tremendous price instability in this commodity market resulting in Draper's sales and employment declines.

Business Strategy

NYS TAAC staff worked closely with the firm's management and its creditors in the following months developing a business plan and assisting the firm restructure its debt financing. As a direct result of our involvement, new products were developed and several promising new markets were identified.

Draper diversified from being solely an egg processor to a manufacturer of frozen meals used in school lunch feeding programs, day-care centers and senior citizen dining programs. Initially the emphasis was on egg-related items but today the menu encompasses over fifty different meals.

Result of Business Strategy

Today Draper employs almost 70 people, a three-fold increase in just over three years. Sales have risen from less than a million dollars to in excess of five million dollars. The company is profitable and has expanded from one plant to two with sites being evaluated for a third.

NYS TAAC Assistance

The NYS TAAC provided approximately $20,000 of technical assistance in the areas of marketing, engineering and data processing in addition to lender negotiations. Company has recovered from import competition.

NATIONAL ASSOCIATION OF DEVELOPMENT ORGANIZATIONS

STATEMENT OF MISS ALICEANN WOHLBRUCK, NATIONAL ASSOCIATION OF DEVELOPMENT ORGANIZATIONS

Senator SPECTER. Thank you very much, Mr. Radow.

I would now like to turn to Ms. Aliceann Wohlbruck.

Ms. WOHLBRUCK. There is a foot of snow in the Pocanos, Senator, and so I told them that I would speak for them, but I am Aliceann Wohlbruck from Altoona, one of Pennsylvania's exporters, so I am happy to have a chance to be here.

A brief summary of Howard's remarks follow: I am executive director of the National Association of Development Organizations which is a national association of groups like the Economic Development Council of Northeast Pennsylvania.

Our members are in the small metropolitan, the Wilkes-Barres, the Scrantons and the Altoonas.

Senator SPECTER. There is a foot of snow on the ground?

Ms. WOHLBRUCK. Yes. I hope you aren't going up there to speak. It will be wonderful for economic development, I guess. There will be skiing.

Senator SPECTER. Yes.

Ms. WOHLBRUCK. It isn't for getting people out of the Pocanos.

Our association is composed of people like Howard and board members and elected officials who are trying to get economic development in small cities and rural counties.

I realize this is not the authorizing committee, but we did want to have this opportunity to speak to you and the other members of the subcommittee to ask for continued funding for Federal economic development programs.

We have tried to make a case in our testimony that all is not well in rural America in small cities, despite this much help.

The other programs like the UDAG program and the HUD which we are being told to look to for development assistance is really much more difficult for us in small communities to obtain that.

On page 4 of my statement, there is a GAO statement showing how difficult it is for small places to participate in UDAG. As you know, the administration is responsible for the elimination of EES and also is responsible for drastic cuts in the Farmer's Home Administration.

On page 5, I would like to point out that my own State, your State of Pennsylvania, is one of 10 States that has both a severe lag in income growth and unemployment; over 9 percent in the last 6 months.

So it is only 1 of 10. So we don't think that the need for these kinds of programs has disappeared, and without some Federal incentives, I don't think places like northeastern Pennsylvania or distressed areas are going to have an opportunity.

I would like to make one correction for the record. Howard and I did this by telephone, and there was a slight typo; on page 8, since 1966, ARC and EEA have invested $113,207,000 in northeastern Pennsylvania and created 16,155 jobs with the one time cost of $8,300, which is much lower than the figures that are being given out by the Agency.

So the testimony summarizes the many things that have been done with EDA in Pennsylvania. I think you have been well aware of those, and I would like to ask the subcommittee to continue funding the program in some way in the coming years until unemployment is at a reasonable rate in places like northeastern Pennsylvania and other areas around the country.

[The prepared statement of Howard Grossman follows:]

NATIONAL ASSOCIATION OF DEVELOPMENT ORGANIZATIONS

PREPARED STATEMENT OF HOWARD J. GROSSMAN

EXECUTIVE DIRECTOR

ECONOMIC DEVELOPMENT COUNCIL OF NORTHEASTERN PENNSYLVANIA

INTRODUCTION

Mr. Chairman, members of the Subcommittee on Commerce, Justice and State, I am Howard J. Grossman, executive director of the Economic Development Council of Northeastern Pennsylvania with offices in Avoca, Pennsylvania. The Council's geographic area includes 4,500 square miles and covers seven counties: Carbon, Monroe, Pike and Wayne (Pocono Mountains) and Lackawanna, Luzerne and Schuylkill. I am testifying today on behalf of the National Association of Development Organizations (NADO).

I am pleased to have the opportunity to appear before this Subcommittee to discuss the need for continued funding of federal economic development programs which are important to Northeastern Pennsylvania and other areas throughout the country.

NATIONAL ASSOCIATION OF DEVELOPMENT ORGANIZATIONS

The National Association of Development Organizations was founded in 1967 by a group of economic development districts to promote development in small metropolitan and rural areas. Today our members are multi-county planning and development organizations and other state and local agencies which help local governments and the private sector work together to create and retain jobs.

ECONOMIC DEVELOPMENT DISTRICTS

For thousands of communities development district staffs provide the only professional assistance to governments, businesses and citizens in the field of economic development. In this time of economic recession, districts are needed more than ever.

By working cooperatively through economic development districts, local governments and the private sector can maintain and create jobs with a minimum of control from Washington and maximum local participation. The district approach to job creation has developed a partnership between local governments and the private sector which is exactly what the Administration is supporting.

I would like to quote what a consultant's study of EDA district planning program said:

> " The most important impact districts have accomplished has been serving as a catalyst to make political and business leaders realize that economic development is a process, that they can and must have influence on that process to ensure it occurs at levels adequate to meet the economic needs of their area, and that the process proceeds more efficiently and frequently when the public and private sector work at it together. In every district there were accomplishments that would not have happened without the 301b program."

Clearly, economic development districts have become an essential part of the institutional structure in much of rural America. Without district staff assistance, many small communities would be worse off than they are.

There is little doubt that much of our nation's existing physical infrastructure needs reconstruction, rehabilitation, or repair. It is indeed unfortunate that the "system" did not provide for better maintenance and ensure that replacement funds would be put aside over the years. What we are now experiencing in the guise of a physical infrastructure "crisis" is really only the result of institutional failure.

Without an adequate institutional infrastructure --- appropriate fiscal planning, budgeting, and expenditure policies included --- we are doomed to repeat such physical crises on a cyclical basis. We believe there is a need to deal with the need for coordinated development of public and private capital facilities on a life-cycle cost basis. The need for investment strategies is particularly important in rural areas where both public and private resources are scarce.

RURAL DEVELOPMENT PROBLEMS, NEEDS, ISSUES

Some rural areas are growing while others continue to decline. The 1980 decennial census shows that population in rural regions rose by 15.4 per cent between 1970 and

1980. The increase has placed new burdens and pressures on local governments. The demand for services is up, and the need for new jobs is evident. A recent U.S. Department of Agriculture study has shown that many small farmers are able to keep their farms because of outside jobs. The availability of jobs, according to the study , is the most serious economic problem for small farmers. Despite growth in certain regions, there is a lack of employment and opportunity in other rural areas. Consider these facts:

- Over-Specialization by Economic Sector- Rural areas are often more dependent upon one or two economic activites for the majority of employment. Dominant activities vary from one area to the next. Mining, agriculture, forestry, fishing, and tourism are the usual major employers.

- Isolation- Rural areas are often more physically and culturally isolated from major markets. Examples include the fact that rural manufacturing firms may not be as aware of changes in consumer habits as firms closer to major consumer areas.

- Transportation- Many rural areas lack the air and rail facilities to attract and hold business. Adequate transportation facilities are not only absent in many rural areas, but others like secondary highways and bridges are poorly maintained due to a lack of funds.

- Unemployed are Exported- Unemployment figures for rural areas are often misleading because the unemployed leave the labor force , if not the area, after a period of unsuccessful job searching. Youth outmigration is still a problem.

- Small Community Tax Base Makes Debt Financing Difficult- Rural communities often lack the ability to build public facilities to attract business on their own. The small tax base of many rural communities prohibits any expansion of existing utilities without outside help.

  Of importance to many small towns and rural areas is the fact that many small banks have been selling off (liquidating)their tax-exempt bond portfolios. Small banks have been disenchanted with tax-exempts since their federal tax bracket was reduced by the Revenue Act of 1978. Beginning in 1979, their tax rate was changed to 22 per cent on the first $100,000 of taxable income, rather than the first $25,000. The effective result has been that banks with assets between $5 million and $20 million have enjoyed a tax reduction (from 48% to 22%) which makes tax-exempt bonds less attractive investments. In addition, the Tax Equity and Fiscal Responsibility Act of 1982 imposed a corporate minimum tax on banks. Now they may deduct no more than 85 per cent of the interest cost of carrying tax-exempt bonds (i.e., interest cost on debt incurred/continued in order to purchase tax-exempts). This reduced the effective yield (return) for banks on tax-exempts by approximately 35 basis points (0.35 per cent), further decreasing their attractiveness.

- Historic Demand Shows Greater Need in Rural Areas for Basic Facilities Aid- Rural areas have historically sought different types of federal assistance than urban areas. In 1978, non-metropolitan areas received $49 more per capita in community facilities assistance, $40 more per capita in business and industrial development, and $21 more per capita in natural resources outlays than urban areas. Urban areas received $224 more per capita in defense contracts, $66 more per capita in housing, and $33 per capita more in transportation. (U.S. Dept. of Agriculture, 1980.)

- Poverty Indicators Higher for Rural Areas- According to the White House Rural Development Background Paper "Social and Economic Trends in Rural America":

  1. Incidence of povery is significantly higher in rural areas than in urban areas (35 per cent of nation's poor are rural).

  2. Rural people experience poorer health than urban people. Also, there is a shortage of health services and medical care in rural areas.

  3. Incidence of substandard housing continues to be more than three times as high in rural areas as it is in urban areas.

  4. Per capita income in rural areas lags behind the national averages for per capita income.

- Rural Areas Lack Capital Markets- A February, 1981 study done for the U.S. Department of Commerce, "An Empirical Analysis of Unmet Demand in Domestic Capital Markets in Five U.S. Regions," reported:

  1. Unmet capital demand is highest in rural areas.

  2. Small firms have the most difficulty obtaining capital, and

  3. Independent firms are at a disadvantage in capital markets.

- Payment-In-Kind Program Will Cause Rural Unemployment- USDA's Economic Research Service confirms that the Department's crop reduction program based on payments-in-kind (PIK) will add as much as three per cent to farm-related unemployment.

The withholding of 82.3 million acres from planting will mean shorter work weeks, lay-offs and job elimination in agriculture-related industries, affecting at least 50,000 workers. The program may cut farm-supplier revenues by $5.75 billion as farmers reduce purchases of seed, fertilizer, pesticides, fuel, machinery, equipment, and direct services such as repairs. Ironically, at the same time farmers' cash crop receipts may fall as much as $11 billion below the 1982 level, further reducing business incomes in rural areas. The result may be exacerbation of the adverse economic impacts already produced by lowered farm incomes during the past three years and two national recessions during the last five years.

- GAO Confirms Small City UDAG Problems- The General Accounting Office has documented the fact that UDAG-eligible small cities with population of less than 2,500 rarely apply and even more rarely receive funding. Although eligible communities under 2,500 population account for 79.5 per cent of the total, they account for only 15.9 of UDAG awards and only 22.9 percent of UDAG applications. When they do apply, their success rate is only 37.4 percent, compared to 65 percent for communitites over 10,000 population. The reason offered for this situation are familiar —— little or no awareness of UDAG on the part of small town officials; a lack of interested private developers; a lack of staff capacity and technical expertise; a lack of private financing (e.g., difficulty in getting firm financial commitments and inability to leverage enough private investment to make a competetive application).

THE FEDERAL RESPONSIBILITY

The federal responsiblity for promoting the economic welfare of the nation is little disputed. Differences arise as to the extent of responsibility and the methods to be employed in meeting these obligations.

NADO bases its position on a recognition that all communities are not equally endowed with economic resources and that the effects of broad macro-economic policies do not fall evenly across the land. In fact we see an abundance of cases in which federal policies benefit the economies of few relatively affluent communities at a cost to others which have higher unemployment and lower household incomes (e.g.,procurement of major weapons systems).

We believe that the federal government has a responsibility to encourage, in fact to foster, economic development. To fulfill this responsibility requires more than relatively passive tax breaks which primarily benefit larger, more profitable firms.

Our members are committed to working with Congress to see that an improved federal economic development program is enacted and adequately funded. We not only support passage of S. 871 but also support continuation of existing programs in the interim.

For the third consecutive year, the Administration has proposed a package of funding cuts which would adversely affect rural economic development. We are troubled over cuts in development programs which assist economically distressed non-metropolitan areas. The Reagan plan would:

- Eliminate the Economic Development Administration.
- Abolish the Appalachian Regional Commission.
- Substantially reduce the funding for Farmers Home Administration rural development loan and grant programs.
- Abolish the Rural Development Loan Fund, the Community Development Credit Union Revolving Loan Fund, and other programs assisting rural development.

If these budget proposals are accepted by Congress, rural communities could no longer rely on the federal government for needed economic development assistance. And, as you know, few state governments are fiscally able to fill the gap. The result would be a ripple effect since the federal programs tend to be closely linked with private sector investment. In short, program terminations and reductions in funding would effectively decrease the rate of growth in some rural areas and accelerate economic decline and continue population loss in others.

Federal programs to stimulate rural development have been cut significantly during the past five years. Prior to the Jobs bill (H.R. 1718), FmHA rural development programs had been cut by about 78 per cent. They would be reduced further and folded into a block grant to state governments if the Administration has its way. With elimination of EDA and ARC the federal government would have only a portion of the CDBG program, UDAG and SBA loan programs as its active economic development tools.

STATE AND LOCAL FISCAL POSITION

It is well documented that state and local governments are experiencing fiscal stress. In 1982, federal grants-in-aid and corporate profits tax accruals both declined for the second year running, while sales tax accruals increased at a rate half of that in prior years. Overall despite tax increases, state and local receipts increased by less than five per cent, yet expenditures increased by nearly five and a half percent, despite widespread retrenchment. The result was the first sizable deficit in the local government sector since 1975.

Clearly, such gross figures mask wide disparities. Some state and local governments are relatively well-off in fiscal terms while others are "truly needy." At least sixteen states have experienced severe lags in personal income growth during the past two years. (Indiana, Nebraska, Iowa, Idaho, Montana, West Virginia, North Carolina, Arkansas, Alabama, Kentucky, Michigan, Wisconsin, Wyoming, Oregon, Pennsylvania, Minnesota)

STATE UNEMPLOYMENT REMAINS HIGH

Twenty-three states had average unemployment rates over nine percent for the second half of 1982 (Michigan, West Virginia, Alabama, Ohio Illinois, Mississippi, Indiana, Washington, Tennessee, Pennsylvania, South Carolina, Louisiana, Kentucky, Oregon, Wisconsin, Nevada, Arizona, California, Arkansas, New Mexico, Rhode Island, North Carolina, and Missouri). Another eleven had average rates between eight and nine percent (Alaska, New Jersey, New York, Idaho, Florida, Montana, Delaware, Iowa, Maryland, Colorado, and Utah). In January, only five states had unemployment rates below eight percent, but the spread between the highest and lowest rates was nearly fifteen percent (West Virginia vs. Hawaii).

Without a doubt, the nature of the economy and federal fiscal policies have left many state and local governments unable to deal effectively with their communities' economic development needs. They cannot afford to pay the price for borrowing in the private market, particularly with the higher risk premiums charged in recognition of their adverse fiscal positions, and they certainly cannot divert current revenues from essential ongoing public services, which already have been cut back in many cases. The fact is that such places are caught in a "Catch 22" situation. While many suffer from the effects of high interest rates which may be partially attributable to federal budget deficits, most suffer more from cuts in federal aid to reduce such deficits. Some could not borrow even at lower interest rates because their local economic conditions imply an inability to repay. In short, less affluent communities will need programs such as EDA even after interest rates decline.

PUBLIC SUPPORT

We also think that is is important to note widespread support for federal programs such as those administred by the EDA. A 1982 survey for the U.S. Advisory Commission on Intergovernmental Relations (ACIR) indicated that about two-thirds of the voting age public felt that federal grant programs to assist poor states and cities are necessary. Over two-thirds support federal grants to finance the construction of major public facilities. This is particularly significant when placed in juxtaposition to the Administration's budget positions.

FUNDING LEVELS NEEDED TO MAINTAIN AND IMPROVE LOCAL ECONOMIES

We believe the facts summarized in this statement show a continued need for federal assistance to distressed areas for economic development purposes. We urge that the funding levels proposed in bills to reform and extend the Economic Development Administration such as S. 871, the Regional Economic Development Act of 1983, be appropriated.

This bill authorizes $530 million for a streamlined, targeted EDA-type program in the Department of Commerce S. 871 (H.R. 10) authorizes funding for public works, revolving loan funds, and technical assistance and planning.

FEDERAL COMMITMENT

We are often asked at the Economic Development Council as to the value of federal aid to help stimulate locally based economic development programs. Without the commitment of The Public Works and Economic Development Act of 1965 as amended and the Appalachian Regional Development Act of 1965 as amended, Northeastern Pennsylvania would be in tragic circumstances today. In the years since 1965 the unemployment rate of Northeastern Pennsylvania has been substantially reduced as a result of many factors including a strong local commitment to economic development.

No major industrial parks, no major development, no significant economic achievement however, would have occurred without the strong assistance received from both of these acts. It is our considered judgement that without the benenfit of these two acts our current employment rate while significantly high due to a major national recession and worldwide economic problems, would have been significantly higher and we would have had a major economic catastrophe on our hands.

This is the importance of continuing federal commitments to an economic development program which allows maximum local flexibility and encourages maximum local economic public and private efforts to acheive economic stabilization.

INDUSTRIAL DEVELOPMENT

One of the most recent examples of economic improvement in Northeastern Pennsylvania is the growing interest in the more rural portions of the region in the development of new industrial parks and a new industrial base. This is typified by the local and regional support given to the the development of the Pocono Mountains Industrial Park, a 164 acre tract located in the heart of the Pocono Mountains in Monroe County which will offer a tremendous opportunity to enhance the economic condition of that county. In fact,65 acres of the tract have already been committed to Charles of the Ritz with over 100 employees and strong indications are that other firms will be moving into that park in the near future. The entire project would not have come about without the benefit of the federal economic development aid provided by the Public Works and Economic Development Act and the Appalachian Regional Development Act. This is one of the series of examples where federal economic development commitments have allowed industrial expansion into parts of Northeastern Pennsylvania which otherwise would have been restricted. This region was a leader in developing the concept of a community industrial park. Leadership in this region suggested and developed Pennsylvania's Industrial Development Authority Program.

Since 1966 ARC and EDA have invested $133,272,472 in Northeastern Pennsylvania in permanent job creating programs, assisting in the creation of 16,155 jobs with a one time cost per job of $8,300.

It should be noted that the Pocono Mountains represent a rural portion of Northeastern Pennsylvania, but the counties are rapidly growing in relation to the economic posture of the rest of Pennsylvania. The rural counties are rapidly growing due to the tourism and travel development in the Pocono Mountains. This area is a leading travel destination in Pennsylvania and it may be the leading travel development area in the entire northeastern part of the United States.

CIRCUIT RIDER PROGRAM

The Economic Development Council Northeastern Pennsylvania had the largest Circuit Rider Manager Aid Program in the history of the United States during the late 1970's and 1980's as a result of an original grant for the Economic Development Administration which allowed placement of a trained staff circuit rider in four different local governments within the seven counties of Northeastern Pennsylvania. The circuit rider was a trained professional who provided general government and administrative assistance on a part-time basis to municipalities that did not have the qualified personnel and/or expertise of an administrative staff needed to handle the complexities of modern local government.

In rural areas, which includes the smaller municipal governments, this is crucial since most of these governments cannot afford full-time technical assistance experts. At its height, the Circuit Rider Program included 54 municipalities and 21 circuit riders. The council spun off a large program as a result of the original EDA grant and subsequently utilized the CETA program as a basis for this expansion.

FLOOD RECOVERY PROGRAM

In 1972 Northeastern Pennsylvania experienced the greatest national disaster in the history of the United States with the flooding of huge amounts of land and destruction of billions of dollars of property through the ravages of tropical storm Agnes.

EDA stimulated a strong recovery program along with other federal, state and local support. EDA aided what turned out to be the largest economic recovery program in the history of the country. It was a quick response for long-term recovery and enabled Northeastern Pennsylvania to modernize and, in particular, caused the city of Wilkes Barre, (the largest city to be impacted by the flood in our region) to have a complete recovery along with other local governments in the region.

EXPORT PROMOTION PROGRAM

For the last several years, EDA financed, through special grants, an export promotion program in at least nine regions of the country, including Northeastern Pennsylvania. We have utilized these grants to promote exporting throughout the seven counties of the region and this has played an extremely important role in broadening economic opportunity. It is now being supplemented in many different ways with the establishment of a small business procurement program and the other economic revitalization tools mentioned in this statement.

LOCAL PUBLIC-PRIVATE PARTNERSHIP: REGIONAL PROMOTION (CHANGING OUR IMAGE)

The Economic Development Council has undertaken for the last five years a regional promotion program with the slogan: "A Place to Grow: The Pocono Northeast". This local public-private sector partnership includes local private sector financial commitment and governmental support through involvement of each of our seven county governments and other local governmental units. It has won national awards from The National Association of Counties (NACO), and The National Association of Regional Councils (NARC). The strength of this effort is the development of a community awards program which has attracted national attention along with other techniques which encourage a new look at the region.

The various federal economic development programs including EDA serve as a basic support structure to help undertake such a vast project as changing the image of an entire region and underscores the public-private partnership which has always been the hallmark of Northeastern Pennsylvania.

INDUSTRIAL WASTE MANAGEMENT

A new private sector venture encouraged by a small grant from EDA through its technical assistance program is an example of the partnership of the public and private sectors and includes a strong commitment on the part of many local industries to work closely with government to resolve a problem which if left unchecked would cause a loss of thousands of jobs. The EDA grant is being utilized to investigate the location of a site or sites where the disposal of non-hazardous industrial waste along with an evaluation of the management of such sites and a public information and education program.

JOB NOT COMPLETED

But the job is not done. The economic strength which has been encouraged by the above two acts needs to continue in some form through continuing federal commitment to economic development strategies. In our region we often use the words "investment opportunities" to portray the significant roles which the Public Works and Economic Development Act and Appalachian Regional Development Act have played over the years. Investment opportunities are exactly what federal dollars represent. These federal dollars result in significant employment generation which would not have occurred without the commitment of various grants to projects in Northeastern Pennsylvania. As you will see from the separate report on Northeastern Pennsylvania, since the inception of these two federal aid programs employment has significantly occurred in this region. Our regional future is now typified by the expansion of population which occurred in Northeastern Pennsylvania between 1970 and 1980. For the first time in fifty years the region's population increased. The increase was approximately 34,000 persons, Since the population in 1970 was around 873,000 and in 1980 was 907,000. Again, much of this would not have occurred without the continuing utilization of federal programs discussed previously.

REVOLVING LOAN FUNDS

A new type of economic venture has occurred within the last sixteen months which bears great promise for the 1980's. To stimulate economic investment and business and industrial expansion, the Economic Development Council of Northeastern Pennsylvania undertook a new type of economic program. We have utilized funds from the Economic Development Administration and the Appalachian Regional Commission to establish a revolving loan fund business and industrial expansion and investment program. Starting with these two grants, the council managed to expand the program utilizing funds from the community services program and add to our business and industrial venture a revolving loan program for housing. The entire effort has proven extremely successful and we have already committed. $1,132,000 toward nineteen projects creating or saving jobs and many more are in the pipeline.

SUMMARY

We need the continuation of programs such as those authorized by the Public Works and Economic Development Act and The Appalachian Regional Development Act in order to secure the economic base which will be meaninsful in the 1980's and 1990's. The revolving loan fund program is one such venture which provides low-interest loan opportunities for the business and industrial communities. The Public Works and Economic Developement Act for example, can be extremely helpful in recapitalizing the revolving loan funds to continue this important economic investment work. We urge the Senate to appropriate funds for these important programs.

Thank you very much for inviting us to share our views with the Subcommittee. I would be happy to answer any questions.

Senator SPECTER. Thank you very much. We will give it consideration. I am well aware of a great deal about which you speak and about the good work that Mr. Grossman and you all are doing.

Thank you.

I would like to call our final witness now, Mr. Russell Drew.

INSTITUTE OF ELECTRICAL AND ELECTRONIC ENGINEERS

STATEMENT OF RUSSELL C. DREW, VICE CHAIRMAN, U. S. ACTIVITIES BOARD: INSTITUTE OF ELECTRICAL AND ELECTRONIC ENGINEERS

Mr. DREW. Mr. Chairman, I would like to summarize my oral statement.

Senator SPECTER. You are like the fellow who was sent to a political meeting and the hour grew late. The speaker stood up and there was only one man left, and he stood up and said, "Thank you very much for staying," and the man said, "I am the next speaker." [Laughter.]

Senator SPECTER. You may proceed.

Mr. DREW. Following your guidance, I would like to hit three points from our written statement.

I am here speaking on behalf of the Institute of Electrical and Electronic Engineers. This is the world's largest technical society, and it has, in the United States, over 180,000 members, many of whom, of course, are in the District and throughout the States.

We have the advantage of being at the forefront of many of the advancing technologies that are going to open new industrial activities for us and I think we are particularly concerned about some budget changes that have been proposed for new standards in areas which vitally affect our areas.

First is a program which may appear somewhat esoteric, but I assure that is terribly important: This is a measurement assurance program that the Bureau of Standards conducts for laboratories and industrial concerns throughout the United States, primarily electrical standards, electrical measurement standards, which control the quality of microwave components; of a variety of things from radars to telecommunications and other receivers.

This program is being supported on a user charge basis now for each measurement assistance effort that is being conducted for a laboratory.

This year, the administration has taken an R&D effort, which is to improve the quality of standard-setting, and to extend standards into areas where it turns out Europeans have been developing standards, but the United States has not, and put the cost burden of that onto the users.

Now, it turns out that while we are not opposed to user charges, leveling this cost, which is $1.93 million, onto the user community at this time increases the user charges by factors of 10 to 25 times.

At this point, we are, in fact, going to wind up driving users either to European sources, much more time consuming; it makes our industry much less competitive; or the Bureau of Standards will abandon this effort.

They seem to be prepared to do so. We are very concerned about this. We think it is a legitimate Federal function, and we believe this $1.93 million should be restored to the Bureau of Standards Federal budget.

The second point is the Institute of Computer Technology also at the Bureau of Standards, this is being proposed for a 70-percent reduction this year. I don't need to remind you how important computers are to our society. Everything from——

Senator **Specter**. What is your request?

Mr. **Drew**. We would like to see full restoration of that $7 million to the level of 1983. We think it is completely, I think, incomprehensible for the administration to propose such a cut this year.

The major role for this Computer Science and Technology Institute is the orchestration of computer standards in industry and particularly for the Federal Government.

They have field responsibility, for example.

The third item is a $1 million increase that, we believe—and this is extremely modest, but we think it is necessary—to restore last year's level of effort in the Office of Productivity, Technology and Innovation.

This is at the Assistant Secretary's level—to carry out what our congressional mandated responsiblities under the Stevenson-Weedler Act, which, it turns out, the administration has tried to downgrade and ignore.

We think each one of these are important elements; in one case, the Bureau of Standards and the other, for the Office of the Secretary.

I would be happy to answer any questions you might have.

Senator **Specter**. You are the chairman of the Government Activities Council of the Institute of Electrical and Electronic Engineers.

How many members do you have in the organization?

Mr. **Drew**. Over 230,000 worldwide.

Senator **Specter**. How big an office do you have in Washington?

Mr. **Drew**. We have an authorized strength of 18 people in Washington; right now we have 16.

Senator **Specter**. Authorized 18 and appropriated 16?

Mr. **Drew**. Yes.

Senator **Specter**. I see you have been in existence since 1884.

Mr. **Drew**. Next year is our centennial.

Senator **Specter**. You are going to have a big party?

Mr. **Drew**. Yes; we are going to try to make a special effort to involve the Congress.

Senator **Specter**. OK. Well, thank you very much, Mr. Drew.

We very much appreciate your being here.

[The statement follows:]

PREPARED STATEMENT OF DR. RUSSELL C. DREW

CHAIRMAN, GOVERNMENT ACTIVITIES COUNCIL

INSTITUTE OF ELECTRICAL AND ELECTRONICS ENGINEERS, INC.

Mr. Chairman:

Thank you for the opportunity to present a statement regarding the proposed funding for the National Bureau of Standards and related parts of the Department of Commerce for Fiscal Year 1984.

As Chairman of the Government Activities Council of the IEEE, I am particularly responsible for development of the interfaces between the Institute -- the world's largest engineering society -- and the Government. Professionally, I currently head my own small high technology business and have served previously as a member of the President's Science Advisory staff under four Presidents. Hence, my perspective will be both as an entrepreneur and as a former Government employee at the policy-level in science and technology.

I am sure you have all heard the litany of concerns that have been expressed about the competitiveness of U.S. industry. We are in a period when significant and often threatening shifts in industrial activity are taking place in response to changing cost factors, and many are attempting to sound the warnings of difficulties ahead. While there are few simple solutions offered, there is general agreement that technology is one of the most important of the many factors that must be addressed in order to retain the degree of industrial leadership necessary to our continued economic health and to cope with the current waves of change that are occurring.

We in the IEEE share this view. Since we work in electrotechnology we also are fortunate to share in the responsibility for providing many of the advanced technological tools that will be revolutionizing our industrial setting in the coming years. Electrical and electronic technology have already made great leaps forward, and are expected to continue their explosive growth in the next decade. Our past performance in these technologies has been the product of both government and industry support for technology, including sizable government R&D

investments to produce leading edge, frontier technologies, and a solid government supporting role in more applications-oriented areas. Looking ahead, we see particularly critical roles for Government in many of these technical areas, including serving:

o as a supporter of research

o as a source of standards technology and appropriate regulation, and

o as a catalyst to bridge the gap between research and technology applications.

The National Bureau of Standards over the years has played an important role in supporting these functions and has grown and evolved to keep pace with the expanding roles for electrical and electronics systems as well as other technical areas. It has provided invaluable support to voluntary standards programs and to precision measurement activities that are fundamental to large scale efficiencies and productivity improvements in high technology industries. This work must continue if we are to meet the growing challenges from overseas competitors.

The FY 1984 budget proposed for the NBS is $98.7 million, a reduction of over 16 percent in current year dollars over the funding estimated for this year. Among the cuts that have been proposed, most are being proposed on the basis of doctrinaire statements about "shifting functions or charges to industry".

We believe many of the proposed cuts are unjustified and, if sustained, will result in serious loss in capabilities. These actions appear both short-sighted and completely out-of-keeping with our national need for technological development. I would like to address two of these cuts specifically, and request that the Committee consider restoration of the funds involved.

The first of the affected programs is the Measurement Assurance Program (MAP) and Regional Measurement Assurance Program (RMAP), which provides services to insure the quality of measurements in commercial and Government calibration laboratories. Currently, the direct charges for these services are being supported by fees from the customers. This year, it is proposed that the cost of research and development and other baseline support costs be added to the direct cost of measurement services, increasing the fees between 12 and 29 times for

MAP and RMAP, respectively. If these precipitous increases are allowed to occur, the net effect is likely to be a loss of these services for a critical part of our industry -- the smaller business and the entrepreneur -- and a major cut-back in other areas. This will be occurring at a time when new products, new sevices, and defense needs will all be placing new demands upon our measurement and calibration capabilities. The services are needed to keep quality standards high and to improve the performance of U.S. products. Government funding for the R&D and baseline cost for this program is just as vital as in aeronautics or agriculture, since we all benefit from the improvements that are enabled by the MAP and RMAP program.

Mr. Chairman, the IEEE vigorously supports restoration of the $1.933 million cut from this program in FY '84.

The second example of ill-advised program cuts I would like to cite is in Computer Science and Technology. Our use of computers has expanded from the scientific laboratory to the individual living room in less than a generation, and their impact on our lives already has been profound. Continued expanded use of computers and even broader impacts seem assured in the future, coupled with improved communications capabilities. In this expanding environment, the NBS has a unique government role in complementing the industrial entrepreneur in developing and supporting the development of standards both nationally and internationally, particularly in the automated data processing (ADP) area, but also expanding into new areas as new needs arise. In 1984, this program is proposed to be cut by 70 percent, or $7 million.

The principal program elements that will be lost are those that involve Federal uses such as computer performance evaluation, production and testing of Federal ADP standards, technology forecasting of future Federal ADP standards needs, cost/benefit analyses of proposed standards and monitoring compliance. At a time when growth in computer use is assured and a diverse new family of microprocessor-based capabilities will be coming into expanded application for Federal as well as non-Federal use, making a drastic cut of 70 percent in the major Federal computer standards activity leaves a serious gap in the Government's capabilities.

We therefore support restoration of $7 million for the Computer Science and Technology Program for FY '84.

We also see oppportunities for expanded activities at NBS in fields such as robotics and automated manufacturing, where the current budget barely holds the line against program reductions.

There are other examples of cuts that have been made in areas outside of IEEE's direct expertise, such as in the Centers for Fire Research and Building Technology, that appear to be equally short-sighted. There is a disturbing pattern to these reductions -- that is, a doctrinaire approach to the interface between Government and industry in R&D areas that narrowly limits the role of government. This narrow interpretation of the appropriate role for government is in strong contrast to the historical record where government has been a valuable partner with industry in creating a strong technology base for commercial suppliers such as in aeronautics and agriculture.

The National Bureau of Standards has operated in this tradition, providing support not only to government but also and more importantly, to industry for over 80 years.

In this time of national concern over the economy and in view of the efforts to improve the viability of many segments of U.S. industry it is false economy to cut back the NBS so severely.

Beyond the NBS itself, but closely allied with it is the funding requested for the major elements of the Office of the Assistant Secretary for Productivity, Technology and Innovation, that is, the National Technical Information Service (NTIS), the Office of Productivity, Technology and Innovation (OPTI), the Office of Competitive Assessment (OCA) and the Office of Strategic resources (OSR). In general, the amounts requested, such as the $3.7 million for OPTI, appear grossly inadequate for the effort that should be carried out in support of these functions, particularly those already identified in such legislation as the Stevenson-Wydler Act and the National Materials Policy, Research and Development Act of 1980. As a minimum, we support the FY '84 request for these activities, but with the conviction that much more should be done to carry out existing Congressional mandates and to provide a much more vigorous Federal program that addresses the major issues of productivity, technology and innovation.

This completes my prepared remarks, Mr. Chairman.

Thank you for this opportunity. I will be pleased to respond to any questions you may have.

SUBCOMMITTEE RECESS

This concludes the public witnesses hearing. The record will be left open until May 10 for any additional statements.

The subcommittee will recess until 10 a.m. tomorrow when we will receive testimony from the Secretary of State and international organizations of the State Department.

The hearing is adjourned.

[Whereupon, at 4:12 p.m., Wednesday, April 20, the subcommittee was recessed to reconvene at 10 a.m., Thursday, April 21, 1983.]

MATERIAL SUBMITTED SUBSEQUENT TO THE HEARINGS

(CLERK'S NOTE:) The following prepared statements and related material were received subsequent to the hearing, and will be inserted in the record at this point:)

STATEMENT OF HAROLD W. WILLIAMS, PRESIDENT INDUSTRIAL POLICY COUNCIL, 805 15TH ST, NW WASHINGTON, D. C. 20005 (AC 202) 842-7615

SUMMARY

Trade adjustment assistance is an essential ingredient of a national trade policy that promotes the growth of the international trading system.

It is wrong to use statistics based on past mistakes to label the program ineffective. As it is now being administered, the program is not making bad loans.

While the loan program is essential to the program, it is not the most important part. Less than 14% of the firms assisted under program have received loans. The balance were helped through technical assistance.

More than 85% of the 2200 firms that have participated in the program are still operating. They employ more than 250,000 persons.

In one year alone, those workers whose jobs have been saved by trade adjustment assistance for firms pay at least about $200,000,000 in taxes.

The cost of trade adjustment assistance for firms amounts to about one week's cost for unemployment compensation for the workers whose jobs have been saved by the program.

Firms repay loans. Most financial assistance is in the form of government guarantees of loans made by commercial banks.

> Trade adjustment assistance for industries is one important way to help entire industries counteract unfavorable import competition.
>
> Many hi-tech industries are now facing import competition. Trade adjustment assistance is becoming a significant factor for many hi-tech firms.

The Industrial Policy Council is an organization that is concerned with the maintenance of a strong industrial base for the United States. We believe that a dynamic international trading system is essential to the economic growth of this Nation, as well as to the security and prosperity of the world. We also believe that an effective trade adjustment assistance program is an essential ingredient of of a national trade policy that promotes the growth of the international trading system.

I am here today to urge Fiscal Year 1984 funding at current levels of $27.5 million for the trade adjustment assistance program for firms and industries that is administered by the International Trade Administration in the Department of Commerce. Unless that program is reauthorized by the Congress, it will expire at the end of this fiscal year. I am pleased to note, however, that the House Ways and Means Committee has unanimously voted to recommend to the Budget Committee that the program be continued at current levels in fiscal 1984, and its Subcommittee on Trade has favorably reported reauthorization of the program for an additional two years. We have testified before the Senate Finance Committee and I can report that there is strong bipartisan support for the program in that Committee. Legislation which will reauthorize trade adjustment assistance has been introduced, and we anticipate timely and favorable action. It is, therefore, appropriate for this Committee to consider including $27.5 million for trade adjustment assistance for firms in the Fiscal Year 1984 appropriation for the International Trade Administration.

With all due respect to the Administration's arguments for the abandonment of this program, we think that it is short-sighted to walk away from trade adjustment assistance at the very time when the legitimate concerns of workers, firms and communities for the jobs and businesses that have been lost to foreign competition are forcing legislators to take a long and hard look at restraining imports.

And yet all of us know that protectionist measures taken by one country invite retaliation by others which in turn provokes more retaliation until the international trading system is shattered.

The Administration is correctly resisting extreme protectionist measures. At the same time it is vigorously promoting exports. But what can the Administration say, what can the Congress say to the unemployed, to the businesses that are being forced to shut down, to the communities that are losing their factories?

If there is no answer other than to try to convince those who have been harmed by import competition that the greater good demands their sacrifices, then we will end up with more protectionism, which will invite retaliation, and our export development programs will be useless.

In fact, many students of the subject believe that trade adjustment assistance has made it possible ever since 1962 for this Government to adopt what is essentially a free trade posture. Our commitment to free trade has been an example to the rest of the world. It has helped raise standards of living all over the globe. It has saved consumers in this country billions of dollars. Compared to the magnitude of efficiencies gained through the liberalized international trading system, the costs of trade adjustment assistance are relatively small.

There are really only four choices that governments have to respond to international competition: (1) One choice is to try to convince the general public that in the long run everybody will be better off, even if some have been hurt badly at present. That choice, by itself, is not practical because the public will not buy it. And perhaps they should not buy it, because it is not at all clear that we will all be better off in the long run if our basic industrial structure is shattered by a flood of imports. (2) A second possible approach is to adopt protectionist measures and prevent imports from entering the country. We think that approach is self-defeating because it will invite retaliation and destroy a trading system that has contributed a good deal to our high standard of living. (3) A third choice is to compensate those who have been harmed. That approach has been tried in the past, largely through the trade adjustment assistance program as it worked several years ago. While it can be argued that compensating the victims of free trade is a worthwhile policy because it makes it possible for us to preserve the benefits of the international trading system, compensation without adjustment is expensive and, to a certain extent, counter-productive because there is little incentive to adjust. (4) The only choice left is to establish and administer an effective adjustment program that focuses assistance on those who have been harmed by imports in a way which will encourage and help them to adjust.

The trade adjustment assistance program for firms and industries, as it is now administered by the Department of Commerce, is just such a program of adjustment. It is small and could use more resources. It is imperfect and could stand some changes. But we believe that it would be wrong to eliminate it.

The major argument advanced by the Office of Management and Budget for the termination of trade adjustment assistance for firms and industries is that the assistance has been relatively ineffective. For example, it is maintained that 70 to 75% of the firms that have received financial assistance are in default on their loan payments and therefore can be assumed to have failed in their adjustment. But there is much more to the trade adjustment assistance story than those facts.

First, while there is no doubt that there has been a high default rate for loans to firms under the trade adjustment assistance program, those loans were largely made four to five years ago under a different Administration and a different approach to loan administration. Within the past two years, there has been a marked change in the loan review process. Credit procedures have been tightened. The default rate now is well within tolerable limits for a program of this type which is, after all, limited by statute only to firms that cannot secure financing elsewhere.

Second, Government financial assistance to firms is not the only feature of the program, and indeed it is no longer the most important feature. For every firm that receives a Government loan or loan guarantee today, there are about 70 firms that receive technical assistance. Somewhat over 700 firms a year are now receiving technical assistance under the trade adjustment assistance program. Of the 2,240 firms that have received such assistance since fiscal year 1979, 1877 or about 84%, are still in business. That is hardly an ineffective program, as claimed by the Office of Management and Budget.

Concentration on the record of financial assistance to firms neglects the remarkable successes of the program's impact through industry grants. Some 19 industries have been assisted through these grants to develop new markets, improve productivity, expand exports, and develop new products. These 19 impacted industries have a total employment of over 2,737,000 and encompass more than 26,000 firms. A list of these industries is attached. Grants under the program have enabled the footwear industry to establish a footwear institute in this country where member firms can get the latest information on productivity developments and new designs. The program has enabled the apparel industry to develop new markets overseas. The tailored clothing industry has developed new production techniques. All of these promising and effective programs would be wiped out if trade adjustment assistance for firms and industries is terminated this year.

The Committee should also bear in mind that the defaults on Government loans do not tell the whole story of financial assistance under this program. The Trade Adjustment Assistance Centers that are funded under the program have been responsible for securing over $100,000,000 worth of financing from other sources. A summary of this alternative financing is also attached.

The full flavor of what this progam has done for firms that have been hurt by imports can best be gained from the histories of some of them. A sample of these histories is attached. But let me briefly describe a few.

The Osceola Shoe Company in Arkansas was being forced out of business in 1979 by imports from the Far East that were taking away its markets for houseshoes. Technical assistance helped the company to develop new markets for golf shoes, and a working capital loan helped get back into production. The firm was also helped to export. Employment has grown from 300 to

625 and sales have increased by 43 percent. The firm is now paying 100 percent of the cost of its technical assistance.

Billy the Kid, Inc., of El Paso, Texas, found its sales beginning to decline in 1978 due to the impact of imports. Technical assistance under the trade adjustment program showed that sales could be increased through diversification into related apparel lines. The firm's financial condition had been weakened, and it was necessary to arrange $4,000,000 of Government financing, of which $3,000,000 was in the form of a loan guarantee. Sales have increased, margins have widened and pre-tax income surged nearly 2 1/2 times. Export sales have also increased.

Lorraine Handbags, a small handbag manufacturer in Massachusetts, received technical assistance under the program and was advised to switch from competition against imports in discount stores to specialty stores and boutiques. Its product was also upgraded. Sales rose from $260,000 in 1979 when it was certified to $1.9 million in 1982 and an estimated $2.7 million for this year. Management states that the firm would be out of business today were it not for this program.

York Capacitor Corporation of Winooski, Vermont, lost its market for small fluorescent lighting capacitors to the Japanese. With the aid of trade adjustment assistance, the company developed a plan to produce and market a new-technology capacitor, and secured a $240,000 loan to carry out the plan. Its new machinery is fully operational and its new products are receiving tremendous reception in the market place. Sixteen additional people have already been hired with about fifteen to twenty more soon to be added to the payroll.

The Florod Corporation of Hawthorne, California was the first

U. S. manufacturer of laser mask trimmers, a yield enhancing device for the semiconductor industry. It lost its market completely to the Japanese in 1980. With technical assistance under the program, the company has developed new markets for a laser defect analyzer and optical tooling, and it has developed new applications for existing products. The company is anticipating a banner year and states that the Western Trade Adjustment Assistance Center (which is funded under the trade adjustment assistance program) served as a life preserver. "It allowed us to hang on and develop enough strength to swim again."

Jerome Industries of Kenilworth, New Jersey found its sales of voltage transformers dropping by 28% in 1979 as a result of import competition. Trade adjustment technical assistance helped the company to revise its marketing, manufacturing and financial planning, and the company also received financial assistance. Sales volume has increased by 43%. Its customers have grown from 83 to over 200, and employment has gone from less than 100 to over 150.

These are just a few of the case histories. More details on these and additional case histories on other firms are attached to my testimony. In light of these facts, it is hard to accept the judgment of analysts in the Office of Management and Budget that this program has proved ineffective. There are hundreds of business owners through the country that will dispute that judgment and thousands of employees of these businesses who would not agree that trade adjustment assistance for firms and industries has been ineffective.

The Committee should keep in mind the fact that trade adjustment assistance for firms and industries also serves the employees of those industries. This fact is well recognized by organized labor. For example, Mr. Domenick DiPaola, Managing Director of the Leathergoods, Handbags, Plastics, & Novelty Workers Union, Local #1, AFL-CIO, stated before the House Subcommittee on Trade, "There would not be an American handbag industry today if it were not for the Trade Act of 1974....This program for industries and firms looks after the best interests of the American worker."

Those of us who ask for a continuation of this program are not unmindful of the need to cut budget deficits. We believe that this program must, like many others, pull in its belt and operate under more stringent fiscal guidelines. But the Committee should keep in mind that the program has already been cut in half from the amount requested by the present Administration for the fiscal 1982 budget. When the Reagan Administration undertook its budget review in the winter of 1981, it submitted a budget for trade adjustment assistance for firms and industries of $54 million. That amount was subsequently cut by the Congress to $35 million and later reduced to $27.5 million, the present level. We do not think that the maintenance of this drastically reduced level would be placing too great a strain on the budget. This program has already taken its cuts. If it is terminated, the consequences to the international trading system could be far-reaching.

The concept of meaningful adjustment to import competition is the only practical way this country can respond to the pressures of the international trading system and contribute to the maintenance and expansion of that system. While our present adjustment programs are far from ideal, we need to improve, not abandon them. We urge continuation of the adjustment assistance program for firms and industries at present levels. This is not the time to give up on such programs. The stakes are too high.

York Capacitor Corporation
460 Weaver Street
Winooski, VT 05404
Harold Dubilier, President
(802) 655-2550

York Capacitor was a leading supplier of capacitors, devices used for the storage of electrical energy. Its main customers were flourescent lighting and air conditioner manufacturers. The market for the small flourescent lighting, or "tubular" capacitors was generally lost to the Japanese which dropped prices more than 22 percent between 1978 and 1980. Persons knowledgeable of the capacitor industry reasoned that Japan was attempting to capture the U.S. market for tubular capacitors with no apparent regard for breakeven or profitability. Management reasoned, therefore, that the firm's recovery depended mainly on the success of the air conditioner or "AC can" capacitor which is much less labor intensive.

With assistance from TAAC, the company submitted a business plan based on the production and marketing of a new-technology AC capacitor. It seems as though a smaller, lighter and less expensive AC capacitor had recently been developed using metallized, polypropylene film instead of paper/foil construction. Because it is not a labor-intensive product and because only "approved" U.S. manufacturers of AC capacitors (of which this firm is one of only eight in total) can supply the major markets, the risk of overseas competition is minimal. Industry anticipated that the new metallized capacitors would soon render the older ones obsolete.

The business plan involved the purchase of specialized machinery needed to produce the metallized capacitors and a financial package to support the purchase. Market development for the new capacitors was seen as almost foolproof as they would directly replace the older type in similar equipment. Also, only two of the eight "approved" AC capacitor makers are producing the new type allowing York to get an early foothold in the market before the others followed.

To support the purchase of machinery and equipment for producing the new product, York, with the assistance from the TAAC project officer, submitted an application for a $240,000 direct loan. In having this loan approved by

ITA, York was able to leverage an additional $110,000 from other sources.

The new metallized capacitor machines which were purchased with ITA direct loan funds are fully operational and according to York management, the salvation of the company. The products manufactured by these machines are receiving tremendous reception in the marketplace.

York is meeting all loan commitments. Management anticipates that it will be in full operation within the next four years, and may be able to fulfill all long-term lendings in advance.

Employment has increased by sixteen, with anticipated needs of an additional fifteen to twenty people in the near future.

Lorraine Handbags, Inc.
79 Essex Street
Boston, MA 02111
Charles Pagliarulo, Treasurer
(617) 423-5889

Lorraine Handbags is a small manufacturer of leather and suede handbags and accessories. Originally, its products were sold to mass-merchandisers who, in recent years, stocked an increasing number of lower-priced imports from Taiwan, Hong Kong and Columbia. According to the 1979 U.S. Industrial Outlook, U.S. Department of Commerce, ITA, imports of leather handbags increased by an estimated 21 percent from 1973 to 1978. From 1974 to 1979, Lorraine's sales, reflecting this influx of foreign-made handbags, fell by almost 75 percent. Profit margins evaporated and employment declined from 20 to just 6 production workers.

Analysis of the firm's operations by the TAAC project officer revealed a marketing problem and the need for assistance in that area. The consultant hired for this project confirmed the TAAC officer's feelings that the company had been competing directly with low-end imports and that a new marketing/product strategy was needed for recovery. He discovered, via field research, that Lorraine's handbags were being sold literally side-by-side the less expensive, lower quality imports in chain discount department stores. Obviously, they were not moving because they were losing out against price competition.

The Lorraine product, being of somewhat better quality, was in the wrong stores and was being retailed to the wrong group of consumers.

Key recommendations centered around upgrading the retail accounts by changing distribution to include specialty stores, boutiques and "first floor" department stores, rather than mass-merchandisers. The product, also, was substantially upgraded by adding inner liners, designing for more style and fashion, extending the line to new colors, and generally including those elements which will bring a higher price.

The strategy was obviously successful because sales rose from $260,000 in 1979 to $1.5 million in 1981 and $1.9 million for 1982. Profitability has been restored and more employees are being added at regular intervals. Employment for this past year averaged 50 people. The company also subcontracted orders which generated 25 additional jobs at other companies.

Based upon the current trend, the company anticipates that sales for this year (FY May 31) will be $2.7 million.

Sales projections for FY 1984 are expected to be in the range of $4 million to $5 million with employment in the range of 100 people. These projections for next year are based upon orders already in-house for the company's 16 lines of high quality handbags.

Management of Lorraine Handbags admits that the firm would probably be out of business today if it were not for the Trade Adjustment Assistance Program.

ROYAL ART MANUFACTURING CORPORATION - KEARNY, NJ

I. BACKGROUND

Founded in 1950, Royal Art Manufacturing Corporation manufactures the most complete line of French provincial furniture and accessories of any company in the U.S. The furniture is cut to pattern with woodworking machinery, assembled, hand-sanded and painted or finished with hand-applied gold leaf.

II. TRADE ADJUSTMENT ASSISTANCE

Royal Art Manufacturing Corporation recently received a direct Trade Act loan of $560,000 through the assistance of the New Jersey Trade Adjustment Assistance Center (TAAC).

Royal Art will use part of the proceeds to acquire new high-speed equipment to improve manufacturing costs and enable the company to compete with imports. The balance of the funds will be used for working capital to expand operations.

The New Jersey TAAC has provided Royal Art with consulting assistance in the engineering and marketing areas to improve operations and expand into other potential markets.

III. EVALUATION

The consulting and financial assistance has enabled Royal Art to become more competitive, improve sales, expand the product line and to retain their employees.

Royal Art currently employs about 43 workers and is planning to increase that number to 67 during the next three years.

BOMAR CRYSTAL COMPANY - MIDDLESEX, N.J.

I. BACKGROUND

Bomar Crystal Company was founded in 1963 as a manufacturer of quartz crystals for the C-B radio industry. The company progressed from a part-time mail order business to a thriving manufacturer with sales of $2.9 million in 1976. The next two years reflected a substantial drop in volume attributed to the influx of finished crystals from Japan, Hong Kong, Korea and Taiwan. This period also reflected a rapid decline in the domestic production of C-B radios, also due to imports. These imports precipitated a sales falloff of more than 50% with substantial losses recorded for the first time in the company's history and Bomar was forced to reduce its production employees from 198 to 49.

Faced with these serious problems, Bomar management learned of the Trade Adjustment Assistance program from a seminar sponsored by the New Jersey Trade Adjustment Assistance Center (TAAC).

II. TRADE ADJUSTMENT ASSISTANCE

The New Jersey TAAC engaged an independent management consulting firm to review the firm's position with the objective of developing both short and long-term plans for returning the company to a competitive position. A marketing diagnostic study covered potential markets, marketing techniques and customer relations. A financial study to identify funding requirements and an engineering diagnostic assessment was made of Bomar's manufacturing costs, quality control, and product engineering methods. These studies determined that Bomar should broaden its market area into identified communication markets which reflected greater growth potential.

Bomar had used all of its available bank credit and, therefore, could only rely on the Trade Adjustment Assistance program to fund its recovery through a direct Trade Act loan. The new funds enabled the company to acquire new manufacturing equipment, restructure its in-house sales organization, and provide for adequate inventory to enter the new markets.

A manufacturing consulting specialist was also engaged to provide know-how in the production of crystals to be used in the targeted market areas. New production methods and equipment have enabled Bomar to manufacture high-quality crystals in a wide variety of frequencies. Improvements in production efficiencies and customer service were realized from re-engineered production standards.

III. EVALUATION

Further declines accompanied by additional worker layoffs were precluded as a result of the Trade Adjustment Assistance to this firm. It is doubtful this company would be in business today without the loan and consulting assistance provided under the Trade Act.

CHRONAR CORPORATION - TRENTON, NJ

I. BACKGROUND

Chronar Corporation was founded in April 1976 by Dr. Zoltan Kiss to manufacture and market liquid crystal displays principally used in electronic watches. In subsequent years, this market was almost entirely lost to imports and therefore other technologies were developed by the company to offset this loss. One of those, solar photovoltaic systems, has now emerged as a prime product.

II. TRADE ADJUSTMENT ASSISTANCE

Chronar Corporation, a manufacturer of electronic components received a $1.6 million loan through the assistance of the New Jersey Trade Adjustment Assistance Center (TAAC).

Chronar will use the loan for equipment purchases, working capital for research and development and marketing. The firm has developed the first low-cost commercial thin photovoltaic film capable of producing solar-generated electricity.

New Jersey TAAC will be providing marketing and engineering consulting assistance to the firm.

Chronar, which presently employs about 45 persons, will be marketing its solar products internationally and hopes to compete successfully with Japanese industry in this field.

WIRE CLOTH MANUFACTURERS INC. - MADISON, NJ

I. BACKGROUND

Wire Cloth Manufacturers, Inc. was founded in 1965 and operates as a fabricator of wire cloth or screen parts used in appliances and industrial processes. Manufacturing orders are generally for small production runs, requiring quick customer delivery and to accurate specifications.

Sales peaked in 1977 to approximately $450,000 but fell considerably in the following two years, due primarily to foreign competition in the fabrication of screens for smoke detectors and imports of high volume products such as extrusion screens for the plastic industry.

II. TRADE ADJUSTMENT ASSISTANCE

The New Jersey Trade Adjustment Assistance Center was instrumental in bringing the Trade Act program to the attention of this company and assisted the management in the preparation of a petition which led to their certification in January, 1979.

Based on the TAAC's analysis of the company's needs, a marketing program was analyzed to be the major solution to the company's problems. An outside management consultant was engaged by TAAC to establish a manufacturers' representative sales organization to provide Wire Cloth with national sales coverage. The consultant was able to identify candidates and assist in the screening process to select the most qualified representatives. The selected representatives were provided with both written and verbal in-depth sales and motivational training to insure short-term results. A system of review was also established to monitor the representative's performance along with sales goals for each of the long-term pbjectives.

An engineering study was also made on the company's plant layout, methods and productivity. Recommendations were made for engineering improvements and adopted by Wire Cloth.

Due to the marketing and manufacturing progress, the company was able to finance the necessary changes made in its operations and its cost-sharing portion of the consulting assistance through local banks and, therefore, did not require further financial assistance available through the Trade Act program.

III. EVALUATION

The new sales representatives have produced new orders and as the sales program developed, the company had a 40% increase in sales volume and profitability improvement.

The method improvements in the manufacturing process were adopted and their impact on the cost of production resulted in price reductions, improved profit margins and an efficient operations.

Because of the company involvement in the TAAC program, the company employees were retained and additional employment is expected in the future.

Management has used the technical assistance provided by New Jersey TAAC to turn the company around and are looking forward to an improved future for the firm.

JEROME INDUSTRIES CORPORATION - KENILWORTH, NJ

I. BACKGROUND

This company was formed in 1964 and is primarily a manufacturer of voltage transformers for charging various small electronic equipment and components. Other products include battery chargers for industrial application and voltage converters for overseas use. Historically, sales were made to manufacturers of electric toys, calculators, video games, appliances and battery chargers.

The company was successful in increasing sales volume, reaching a peak in 1977 of $2.5 million. The succeeding two years saw a 28% drop in sales volume and a substantial loss recorded in 1979. Declines were attributed to offshore competition principally from the orient.

II. TRADE ADJUSTMENT ASSISTANCE

The New Jersey Trade Adjustment Assistance Center provided assistance to the firm in the preparation of a petition which was accepted on April 11, 1979 and the company was certified for assistance under the Trade Act of 1974 in June, 1979.

The New Jersey TAAC engaged an outside consulting firm to analyze the company's marketing, production, and financial situation and to prepare a plan of strategies to enable the company to successfully compete with imported products. The marketing study resulted in a recommendation to specialize sales in smaller "job shop" orders involving customer design and specification engineering development. The manufacturing review recommended a number of additions to the staff to improve management's control and attention to the day-to-day operating details. The financial analysis identified several significant areas for potential improvement. These included inventory control systems, reporting procedures and cost controls.

Based on the analysis and recommendations, an Adjustment Plan was developed and incorporated into the company's E.D.A. loan application. The loan application was approved under the provisions of the Trade Act of 1974 and provided Jerome with sufficient working capital to carry out the strategy recommendations. Financial assistance could not be obtained by this firm through usual banking sources.

To further assist the company in its recovery, additional consulting assistance was provided to establish the management controls, improve quality, revise the management structure, refine cost controls and install an order processing system.

III. EVALUATION

The initial consulting assistance was successful in helping to identify the company's problems and provided specific recommendations for the firm's recovery. Following the Adjustment Plan, Jerome has improved their operating performance and improved their competitive position. The E.D.A. loan enabled Jerome to carry out the Plan recommendations and provided for the working capital to acquire inventory, service accounts receivable and expand marketing activities.

As a result of this assistance, Jerome has achieved an impressive increase in sales volume of 43%. One large order was achieved only because of the financial resources provided by the Trade Adjustment Assistance program. Their number of customers has increased from 183 to over 200, and employees now total over 150 as compared with less than 100 at the time of certification.

Type of Trade Adjustment Assistance
Business Advisory Assistance: $80,161

Firm Name: Stevie Togs, Inc.
Address: 3527 Broadway
Kansas City, Missouri 64111
Telephone: 816/531-4333
Contact: Mr. Sam Greenstein

Stevie Togs, Inc., an apparel manufacturer with production facilities in Parsons, Kansas, had for 30 years manufactured children's apparel, with emphasis in the boys' jeans line. Imports of children's apparel made significant inroads into Stevie Togs' markets. Consequently, the firm applied for Trade Adjustment Assistance in September, 1980.

Stevie Togs' principal management had begun investigating the ladies' wear markets. Mid-America Trade Adjustment Assistance Center (TAAC) engaged an industry consultant to review Stevie Togs' operations and to investigate the feasibility of the firm's moving into the women's wear market. The study clearly showed that the firm should drop the boys' jeans line and move into fashionable ladies' sportswear.

The firm's financial condition was sound enough to enable it to finance required capital expenditures without outside assistance. Significant assistance in production and in supervisory retraining was required to assure a smooth and successful transition during the change of its principal product lines. A competitively-bid consultant contract was executed by Mid-America TAAC to provide the required assistance. The firm shared 25 percent of the cost of the technical assistance.

Cost-savings were estimated to be $170,188, of which $120,338 recurs annually. Employment at the time service began was 151 persons which was down from the 219 persons the firm employed prior to the adverse effect of imports. Sales volume has remained stable even in light of the deletion of the existing line, and Stevie Togs expects sales to show increases in the next year.

The firm's employment has stabilized and sales have declined only slightly despite the general downturn of the economy during the last year. The management is currently engaged in long-term plans for sizeable increases in its level of operations, aggressively attempting to take advantage of any improvements in the economic climate.

Type of Trade Adjustment Assistance
Guaranteed Loan: $1,500,000
Business Advisory Asst.: $27,814

Firm Name: Amplifone Corporation
Address: P. O. Box 4340
Brownsville, TX 78520
Telephone: 512/541-3461
Contact: Mr. T. K. Handing, Sr., former President

Amplifone Corporation had historically provided components to manufacturers of television sets. Imported components, particularly from Japan, had captured virtually all of the firm's markets. Amplifone took definite steps with its own resources to try to combat this situation: the firm moved from Illinois to Brownsville, Texas to reduce operating costs while diversifying into consumer electronics and into the design and manufacture of components for the growing data communication/computer markets.

Foreign competition continued to erode the firm's market; during 1978 one of the firm's two plants was closed when foreign interests purchased the domestic consumer T.V. manufacturer which had been purchasing the total output of that plant.

When assistance began in 1979, employment was at 137 persons (down from 165 in 1976); all of these jobs would have been lost without Trade Adjustment Assistance. Units of production had declined from approximately 622 thousand units to approximately 324 thousand units.

As a result of Mid-America Trade Adjustment Assistance Center's Diagnostic Review and Economic Recovery Plan an EDA-guaranteed loan was made in February, 1980 providing greatly needed fixed asset and working capital financing. Without Trade Adjustment Assistance this firm would have been put out of business by imports.

The Mid-America Trade Adjustment Assistance Center (through the competitive-bid process) arranged for a consultant who designed a new product from an existing product line (a magnetless flyback - a flyback is used in CRT's, T.V.'s and other electronic video display devices). This new product was of such magnitude that a major firm, Atari, bought Amplifone. The new owner has expanded employment by 90 percent to 260 persons.

Type of Trade Adjustment Assistance
Business Advisory Assistance: $275,000
assistance in production scheduling
Direct loan: $1,000,000

Firm Name: Osceola Shoe Co.
Address: 9475 Crompton Road
Osceola, AR 72370
Telephone: 501/563-6594
Contact: Mr. William Page, Jr.

Osceola Shoe Co. formerly manufactured houseshoes. Their market was decimated by Taiwanese and Korean imports; therefore, late in 1979, the firm sought Trade Adjustment Assistance.

A review of the firm's operations disclosed that the firm, through significant adjustment in its marketing approach, could feasibly penetrate the market for casual shoes and for golf shoes. Also, the firm could regain a significant competitive edge through obtaining its raw materials in greater quantities and through improvements to its production scheduling. Osceola Shoe Company's working capital had been impaired from its loss of market share, so the firm applied for a direct working capital loan under terms of the Trade Act of 1974 (since private sector financing was not available to them) and entered an agreement to share in the cost of the production assistance to be provided under the terms of this same act.

The services of a major accounting firm were obtained under contract to develop the marketing plan and also to develop, install and refine a computer module to be used in production scheduling late in 1980. Consultant performance spanned all of calendar 1981 and is entering its final performance stage. The firm also took advantage of export opportunities presented through the Trade Adjustment Assistance for Industry program.

During the course of involvement in Trade Adjustment Assistance, the firm's employment increased from an average of 500 persons to 625 persons or by 25 percent. Since the firm's production facilities are located in the delta farmland area of Arkansas, the impact in terms of diversification of employment opportunities in an agri-based economy cannot be overstated. Concurrently, its sales increased by 43 percent in calendar 1981 as compared to 1980, escalating from $14 million to $20. Substantial improvements were achieved in net profits during this same period. Employment and sales volume have remained stable during 1982.

Osceola Shoe Co. has historically shared half the cost of assistance provided under the Trade Act of 1974. In these final assistance phases, the firm is paying 100 percent of the required subcontract consultant cost associated with custom programming of software. As a result of the Trade Adjustment Assistance received, this firm is a healthy, viable employing unit in the communities in which it is located.

Type of Trade Adjustment Assistance
Guaranteed Loan: $375,000
Business Advisory Asst.: $11,314

Firm Name: Fairfax Mfg. Co., Inc.
Address: Hwy 59, P. O. Box 218
Fairfax, MO 64446
Telephone: 816/686-3381
Contact: Mr. James H. Hunter, President

Fairfax Mfg. Co., Inc. is a manufacturer of small wood products, principally gift items for men consisting of pipe racks, ashtrays and dresser valets. In 1975, its product line was copied by the Taiwanese and imported into the

United States. These imported products were retailed at approximately one-half the price of Fairfax's products due both to the labor advantage enjoyed by the Taiwanese and also to the fact that the Taiwanese had no costs associated with the development of designs since they copied the products.

From 1975 through 1979, the imported products captured half of Fairfax's domestic market share. Consequently, Fairfax's employment decreased from 60 persons to 19. In October, 1979, Fairfax petitioned for eligibility to apply for Trade Adjustment Assistance. The firm was certified. Mid-America Trade Adjustment Assistance Center assisted the firm through the performance of a diagnostic review of its operations and the preparation of an economic adjustment plan which identified areas of financial and marketing assistance necessary to effect the firm's adjustment to its loss of market share to foreign imports.

The firm received approval of a $375,000 loan, guaranteed under terms of the Trade Act of 1974. Shortly thereafter, the firm's plant site was flooded. The firm was closed for six weeks while the flood damage was repaired. Without the financial assistance, the firm would not have survived the ravages of both a flood and of import impact. As production resumed, an outside consultant was engaged by Mid-America TAAC to provide indepth assistance to the firm in the area of marketing. This assistance enabled the firm to diversify its product line and to enter the premium market. The company also began exporting its products. The firm's sales increased more that 25 percent. The firm's employment stabilized at 20 persons.

The firm continues to aggressively develop new products and markets as recommended in the consulting assistance received through the TAA program. Despite the state of the economy in the last year, operations have been stable.

Type of Trade Adjustment Assistance
Business Advisory Asst.: $126,073
for improvements in manufacturing,
data processing and management.

Firm Name: Tobin-Hamilton Company, Inc.
Address: Mansfield, Missouri 65704
Telephone: 417/924-3223
Contact: Mr. Joseph Guccione

Tobin Hamilton Company, Inc. is a manufacturer of athletic footwear. Imported shoes were beginning to capture an increasing share of its markets. The firm applied for Trade Adjustment Assistance in the latter part of 1979.

An initial review of the firm's operations revealed that in order for the firm to become more efficient and thereby more competitive, new plant layouts were required at both of its plants, and the warehouse system needed to be restructured. Improvement was needed in the operations of the firm's data processing system, and assistance was necessary in its organizational planning and development.

Mid-America Trade Adjustment Assistance Center (TAAC) executed a competitively-bid consultant contract for the services to be provided on a cost-shared basis to the firm, and the scope of work outlined above was accomplished.

Since entering the program of Trade Adjustment Assistance, the firm's sales increased from $10.5 million to $18 million. Its employment increased from 314 persons to more than 600 persons. The investment of approximately $100,000 in funds under the Trade Act of 1974 for the provision of adjustment assistance to this firm has been richly repaid in terms of increased productivity, increased competitiveness, increased employment and increased tax base.

In the recent economic climate, the firm has experienced some declines in operations. However, its level of activity has stabilized, enabling the firm to hold its own against the recessionary environment.

Type of Trade Adjustment Assistance
Direct Loan: $1,000,000
Guaranteed Loan: $3,000,000
Business Advisory Asst.: $10,000

Firm Name: Billy the Kid, Inc.
Address: 4171 N. Mesa, P. O. Box 9817
El Paso, TX 79988
Principal Product: Boyswear and other apparel lines

Billy the Kid, Inc. was founded in 1937 and has developed into a leading boyswear manufacturer. The firm experienced healthy increases in net sales until 1978 when sales began to decline due to the impact of imports on most apparel lines.

In 1979, the Mid-America TAAC began to assist the company by examining the firm's operations. From this initial assessment, it was determined that the firm needed to develop a business plan to reverse their declining sales levels and remain a viable company.

It was determined that an outside consulting firm who specialized in the apparel industry should be retained to evaluate the firm's operation and recommend appropriate solutions. A competitive analysis was also conducted to assess the firm's relative standing in the apparel industry and to assess any potential opportunities for diversification.

The investigation revealed that sales could be significantly increased through diversification into related apparel lines, and profit margins could be widened through the implementation of a company-wide cost reduction program. To enable the firm to successfully implement the recommended strategies, a $3 million guaranteed loan for working capital and a direct loan of $1 million for fixed assets was requested under the Trade Act of 1974.

In February, 1981 the requested financing was received. As a result of the technical and financial assistance obtained through the Trade Adjustment Assistance Program, net sales for the 39 weeks ended June 27, 1981 rose 18 percent, year-to-year, reflecting gains in unit volume and higher average selling prices due to changes in the product mix. Aided by a company-wide cost reduction program, margins widened and pretax income surged nearly 2-1/2 times. After tax earnings increased to 37.6 percent from 22.5 percent a year earlier, while net income nearly doubled to $2.08 million from $1.05 million during the same time period.

For the fiscal year ended 9/26/81, net income advanced 59 percent to $2.9 million, compared with $1.8 million a year earlier. Revenues totaled $111.0 million, up 20 percent from the $92.5 million generated during the same time period a year earlier. Aggressive expansion has been carried out in domestic markets as well as in export sales to Europe, Japan and South America.

The firm has experienced declines in its employment and sales levels during the past several months due to the economic recession. However, the sales for the fiscal year 9/83 are expected to be $100.0 million or more.

March 10, 1983
MIDWEST TAAC Engagement Summary
By: Tom O'Leary

Apparel Manufacturing	plant layout data processing marketing

BROOKS LEATHER SPORTSWEAR, Oak Park, Michigan
Contact: Mr. Stephen Weiss, President

BACKGROUND:

This $3,000,000 firm designs, manufactures and sells leather garments.

OBJECTIVE:

The major objective of this engagement was to assist the firm in overcoming the loss of 30% of its sales when a single customer switched to an overseas supplier.

COMPONENTS OF THE ENGAGEMENT:

TAAC staff, with the cooperation and involvement of the owner, conducted a diagnostic analysis of the firm's management, marketing, manufacturing and finances and developed an adjustment plan that steered the company into a dealer direct marketing program.

The TAAC contracted with a computer systems consultant to provide technical assistance to the firm in the selection of hardware and software for an on line inventory and order dentry system to properly service the large number of dealers that the new strategy led to.

A plant layout project was undertaken and implemented which improved the flow of material, facilitated better supervision and provided the additional office space and warehouse space needed by the developing order patterns.

On its part, the firm made a major commitment to media advertising and dealer support.

Technical assistance was provided by TAAC, but all financial support was obtainable through ordinary banking channels.

SUMMARY:

The company has made a highly successful adjustment to the shock of increased imports. It achieved sales increases on a year to year basis for each quarter of the recession year of 1982. It is profitable and is paying exceptionally high wages for the apparel industry.

As an extension of its order entry system implemented through the TAAC, it is using its new, state of the art computer to tailor dealer support, promotions, and advertising to level sales, increase sales, fill gaps in its distribution, and increase profits.

March 10, 1983
MIDWEST TAAC Engagement Summary
By Rolf Grote

Molds and Mold Design

FORMATIVE PRODUCTS COMPANY
Troy, Michigan 48084
Contact: Mr. Louis J. Steigerwald, President

BACKGROUND:

This $8,100,000 firm designs and manufactures wooden and plastic molds that are used to produce stamping dies, predominantly in the automotive industry.

OBJECTIVE:

The objective of this engagement was to assist the company in developing a diagnostic study and an adjustment plan for its recovery. The company had been adversely affected by the retrenchment of the domestic automotive industry caused, in part, by imports of foreign automobiles.

COMPONENTS OF THE ENGAGEMENT:

The TAAC staff conducted a comprehensive study of the company's organization, marketing procedures, manufacturing operations and financial condition. The strategy developed in the adjustment plan included plans for the company to diversify into areas outside the automotive industry. To that end, the TAAC staff conducted a comprehensive follow-on market study which identified opportunities in new application areas.

The adjustment plan also recommended a 90% guaranteed loan of $900,000.

SUMMARY:

It is anticipated that the proceeds of the loan will help the company to recover by entering new areas outside the automotive industry. To date, substantial new business has been contracted for in the aerospace industry.

March 10, 1983
MIDWEST TAAC Engagement Summary
By: Tom O'Leary

Apparel Manufacturer	Market Research Computer Programming Sales Forecasting

DALTON INDUSTRIES, INC., Willoughby, Ohio
Contact: Mr. Edwin Young
Vice President, Administration

BACKGROUND:

This large manufacturer of women's sportswear suffered a serious sales decline due to the simultaneous relaxing of import barriers and a change in demand away from the knitwear that it specialized in.

OBJECTIVE:

The objective of the engagement was to assist the company to remain profitable despite import pressure, fashion trends and the recession.

COMPONENTS OF THE ENGAGEMENT:

First, the TAAC staff and an outside consultant prepared a comprehensive diagnostic analysis of the firm, its market, and its operation. This included a survey of customers which discovered some overlap in product lines offered and some lack of clear targeting of offerings. Internal organization and systems were reviewed with the finding that many good programs were underway. These were encouraged and the roles of certain management people were strengthened. The principal internal problem discovered was that rapid growth had outstripped the development of internal systems.

Based on the diagnostic analysis, an adjustment plan was developed for the firm. Major actions recommended included the improvement of sales forecasting, market focusing, labor standards, and improvements in production control. The first project was supported financially by the TAAC whereas the others were exclusively by the company.

The sales forecasting project resulted in a methodology to use the actual sales of the first few weeks of selling in each season to adjust the dyeing, knitting, cutting, and sewing schedules to reduce the production of unsaleable inventory. The project included a major revision to the computer data base which was needed to mechanize this methodology and which later facilitated other data processing projects.

SUMMARY:

The engagement was highly successful and resulted in significant reductions in inventory. This was particularly valuable during the high interest rate periods of late 1981 and 1982.

SOUTHEASTERN TAAC ENGAGEMENT SUMMARY

I. BACKGROUND

Dawson Industries, Inc., is located in Dawson, Georgia with sales and administrative offices located in New York City. The firm currently engages in the manufacture, sales, and distribution of men's, women's, and children's athletic/active sportswear in knit and woven fabrics of cotton and synthetic fibers. Its product line in the past also included sleepwear and panties. Today, their products are sold to specialty stores, department stores, and discount chains either by independent representatives or company salesmen, depending upon geographic territories.

After enjoying success in the early seventies, the firm began to experience serious competition from imported ladies' and childrens' apparel products, particularly sleepwear and panties, from the Far East. Between 1974 and 1976, Dawson Industries suffered a 34 percent decline in employment (from a high of 585), a 20 percent decrease in sales dollars (from a high of $5.8 million), and a 15 percent decline in production.

II. ASSISTANCE PROVIDED

The firm developed a new business strategy to combat the effect of imports and to regain its competitive position. Working with the New York TAAC, Dawson Industries received a $1 million Trade Act loan to provide working capital for repositioning its sportswear line to include higher prices and more fashion-oriented garments. The firm was able to increase sales from $4.6 million in 1976 to almost $11.7 million in 1979 on this new strategy.

Despite this significant increase in sales volume, Dawson was unable to achieve adequate profit performance. Because of continued import competition, the firm could not raise its prices and had to focus on manufacturing cost reductions as a means of restoring acceptable profit levels.

The Southeastern TAAC assisted the firm in formulating a strategy for improving profits, with particular regard to reducing manufacturing costs and increasing managerial efficiency. Based on an operational audit performed by the Southeastern TAAC, several opportunities were uncovered. To improve operations, the Southeastern TAAC recommended the installation of a fully integrated production system; the re-engineering of the sewing room to include the development of new piece rates and cost reporting; supervisory training and new line balancing methods; modification of existing product costing procedure to allocate direct overhead and materials cost more accurately; a review and improvement of plant layout; and the establishment of improved operating budgets.

The Southeastern TAAC provided technical assistance toward achieving these ends by engaging private consultant contractors to address the areas of production control, product costing, and sewing room engineering, while the firm used its own resources to effect other of the recommended changes.

III. RESULTS

Dawson Industries has been successful in achieving its goals. Sales in 1981 reached $30 million. The cost reduction program in the manufacturing area can document savings in excess of $100,000 annually, contributing to a return to acceptable profitability. The Dawson, Georgia plant has been expanded by 25,000 square feet and returned to previous levels, and 200 new jobs have been created in an economically depressed area. Jobs have also been created in other manufacturing firms which act as a subcontractor to Dawson in producing garments to meet sales opportunities.

Automatic Door Manufacturer **Marketing & Product Development**

Background

The Keane Monroe is a North Carolina Corporation, manufacturer of automatic door operators. Historically, the firm experienced sales levels of $3 million and total employment of 62 persons. The firm suffered a sudden 22% decline in sales volume when Besam, part of a large Swedish conglomerate, purchased Keane Monroe's largest distributor for distribution of Besam's own automatic door operator products.

Objective

The Southeastern TAAC conducted an audit of the firm's operations. A strategic plan was developed with the following objectives: 1) develop new products to fill significant product line gaps and improve the price competitiveness of certain existing products; 2) improve the visibility of the Keane Monroe name and gain acceptance by major chains and architects; 3) reduce the dependence on Northeast markets by expanding sales in other areas of the country; and 4) strengthen market planning and management programs.

Components of the Engagement

Keane Monroe committed its requisite strength to many of the critical tasks necessary for recovery; however, the company needed assistance in several areas. The company's 1979 marketing plan was rendered useless by the unexpected nature of the sales decline. The firm needed an objective examination of its market opportunities and some reduction with respect to geographic and product concentration. Under the auspices of SETAAC, a private consultant performed a market planning study for the company. The project consisted of four phases: 1) review and analysis of Keane Monroe's marketing and the market; 2) development of marketing objectives and strategies; 3) development of detailed marketing action plans; and 4) estimates of potential sales and marketing cost. The plan was favorably received by the ownership of Keane Monroe. To completely implement the plan on the outlined timetable, some new financing was needed. After reviewing the firm's strategic plan, the Regional Office of EDA indicated a willingness to accept a loan application for this financing.

The company and SETAAC worked out an extended timetable and the company proceeded to implement the plan.

Summary

It has been three years since the company has received Trade Adjustment assistance. Much has been accomplished. The planning was a major step, but credit for implementing the plan must go to management and employers of Keane Monroe. Ths small company developed three new products and brought them to market: 1) a versatile overhead concealed electrohydraulic operator, the Series 4500, which is said to be the quietest in the industry; 2) a heavy duty slider operator, the Series 7000, which has sold very well; and 3) a light duty operator, the Series 100, which is inexpensive enough for residential use. Two new regional sales managers were hired, and the sales efforts in the Midwest, northern California, and Southeast sales regions have been successful. In 1982 the company's sales have returned to $3 million. The current order backlog is 2½ times what it was last year at this time and employment levels are back up to 60. The future looks bright for Keane Monroe. It has more than regained the business lost in the Northeast, has new products with customer appeal, and has regained its profitability.

TRADE ADJUSTMENT ASSISTANCE ENGAGEMENT SUMMARY

I. HISTORY/PROJECT BACKGROUND

The Joy Footwear Corporation, located in Hialeah, Florida was founded in 1971 as a manufacturer of casual footwear and athletic shoes generally made of canvas upper components and rubber soles. We were a relatively successful company and by 1977 had reached $9 million in sales, comprised mostly of canvas basketball shoes. We employed approximately 350 persons.

In the years following 1977, the nylon and vinyl jogging shoe became very popular, and the market for basketball shoes and canvas shoes declined. Joy Footwear began to manufacture jogging shoes but was unable to attain any degree of success in this market because of the market being flooded with cheaper imports from Taiwan and Korea. Price wise, Joy Footwear was unable to compete with the imports because it lacked the ability from a productivity standpoint to make up the difference between American and (cheaper) foreign wage rates.

By 1979 sales had declined from the 1977 high of $9 million to $4.5 million. Employment was down from 350 to 140. As a result of declining sales and unprofitable operations, the company was financially weak and unable to borrow money in the private sector.

II. TRADE ADJUSTMENT ASSISTANCE PROVIDED

In 1979, Joy Footwear Corporation filed a request for Trade Adjustment Assistance with the Department of Commerce. The firm was certified as eligible to request assistance and did so by requesting help in the preparation of a strategic business recovery plan.

A well-known national consulting firm was provided through the Trade Adjustment program to assist the company in developing a strategy to overcome the problem of import impaction. The consultants audited all company operations to identify the problems and opportunities of the firm. The consultants, together with the management of Joy Footwear, prepared a tactical plan which included the following elements:

1. A consolidation of product lines, with concentrated effort in certain product lines and market segments;
2. An improvement in both the quality and quantity of the sales force;
3. The purchase of production equipment, including two additional injection molding machines, which would increase the plant output to levels consistent with sales projections; and
4. The installation of sewing machinery work aids and revision of the work measurement system to improve productivity and reduce labor costs.

The plan was submitted to the Department of Commerce and subsequently approved, thus allowing Joy Footwear to receive additional technical and financial assistance to implement its recovery plan.

Financial assistance was provided through the Trade Adjustment Assistance Program to support Joy Footwear's strategy. A combination guaranteed/direct loan was approved for $1.75 million to supply working capital for the new marketing strategy and to purchase the new equipment for the productivity improvement strategy. Technical assistance was approved to provide 12 person-months of on-site industrial engineering expertise to restructure to work measurement standards and install machinery work aids.

III. RESULTS

As a result of the production efficiency program, manufacturing costs were reduced by 15 percent. Some productivity savings were passed along to the employees allowing them to increase their hourly earnings. The technical assistance, together with the new working capital, provided the basis of Joy Footwear's active pursuit of the new jogging shoe market.

Sales for 1982 were $12 million — up from the 1979 low of $4.5 million. The company now employs 345 persons, many female, mostly Spanish-American workers in the Hialeah-Miami area.

TRADE ADJUSTMENT ASSISTANCE PROGRAM FOR FIRMS

FLOROD CORPORATION, HAWTHORNE, CALIFORNIA

BUSINESS: Manufacturer of Commercial Lasers for Semiconductor Industry.

IMPACTION: Market completely dominated by Japanese firm in less than 2 years beginning in late 1980.

BACKGROUND: Company was first U.S. manufacturer of laser mask trimmers, a yield enhancing device, for the semiconductor industry. Yield increasing devices are critical to the U.S. semiconductor industry if it is to remain competitive with offshore manufacturers.

Florod's initial reaction to the sudden loss of its market was to start developing new products without regard to timing consequences or to the degree of inherent technological risk. Their reaction can be described as grasping for straw while going down for the third time. The net results was an uncontrolled dispersion of company resources bringing the company to the brink of insolvency.

ASSISTANCE & STRATEGIC CHANGE:

The Western TAAC assisted in formulating a recovery strategy for the company which has resulted in nearly a complete recovery. Today finds Florod on the verge of having a banner year. Key elements of the recovery strategy were as follows:

1) Redirect Florod's efforts back to areas of strength and proven technology, resulting in developing and marketing of new products/applications:

   a) Laser defect analyzer
   b) Optical tooling

2) Define alternative applications for existing products namely

   a) Micro welding
   b) Resistor trimming

3) Establish long term objectives to direct future R & D projects.

4) Assisted company in obtaining an NSF Grant for basic research in laser photomask pinhole repair. If research is positive, it could be the basis for a future commercial product.

RESULTS: "Western TAAC served as a life preserver" says Rod Waters, Florod's president. "It allowed us to hang on and develop enough strength to swim again."

Total technical assistance provided to the company amounts to $28,000. No Trade Act financial assistance necessary.

	1981	1982	1983
Sales	840K	800K	1,600K*
Employees	29	8	18

* Projected Sales

At the time of certification in September 1981, sales had declined to less than $25,000 per month. Currently, March 1983, monthly sales are averaging $130,000 per month. Employment went down from 29 at the time of certification to a low of 8 in 1982. However, in March 1983 employment has increased to 18 people and is on a steady increase.

TRADE ADJUSTMENT ASSISTANCE PROGRAM FOR FIRMS

MESSINGER INC. DBA LISA JASON
VAN NUYS, CA

BUSINESS: Manufacturers of fine jewelry.

IMPACTION: Directly competitive gold necklace rope from Italy, Israel, Peru, Hong Kong equal to or in some cases at a landed price 25% less than client's cost of manufacturing.

BACKGROUND: Messinger Inc. is a family owned California corporation established in 1976. Business was based on experience and expertise of family members in jewelry sales and marketing.

Company established a manufacturing activity to produce 3mm gold chain, but lacked production sophistication. At the time of certification the company was showing sales of $3.6 million.

STRATEGY: To develop jewelry products for which there were no directly competitive imports, to upgrade manufacturing techniques, and to increase productivity and lower unit cost.

ASSISTANCE: Company management had the expertise to develop saleable new jewelry products and settled on the following items for development:

a. 1½mm rope chain
b. Box catches
c. Ring mountings

The Trade Adjustment Assistance Program contracted with a production consultant knowledgeable in jewelry manufacturing techniques to help the company upgrade manufacturing. The client company shared 25% of the cost of this task. Government share of technical assistance $15,000.

The Trade Adjustment Assistance Program also supplied a direct loan to the company in the amount of $624,000 for a term of 7 years for the following:

a. Finance equipment and facility improvements.
b. Finance inventory build up.
c. Finance increased accounts receivable.

RESULTS: Based on manufacturing consultants recommendations productivity improvements were implemented for existing products and a production line was established properly for new products.

Today the 1½mm rope chain accounts for 40% of the company's gross sales and is not import impacted to any great extent.

Box catches account for 12% of sales and is not import impacted.

Ring mountings did not work out as anticipated; have been dropped.

The remainder of sales comes from the originally impacted 3mm product, but better production methods are allowing the company to compete on quality of manufacture rather than price.

To date the company is current with its loan repayments.

Fiscal year end sales for the company as of June, 1982 were $3.4 million with sales for 6 months ended December, 1982 are $2.2 million. 51 people are currently employed by Messinger Inc. as compared with 71 at the time of certification. The strategic changes facilitated by the T.A.A. Program have made long term employment for the 51 people considerably more secure.

Metro N.Y. TAAC

Case Study

Dawson Industries Inc.
1350 Broadway
New York, New York 10001

Contact Person: Max Angel, Pres.
(212) 695-9215

Product: Men's, Ladies and Children's Actionwear
Ladies Lingerie

When Dawson Industries was certified eligible to receive Trade Act benefits in 1977 its sales were $4.5 million and profits were marginal. Employment at the time of certification was 385. Imports from Overseas had impacted the firm.

Metro New York Trade Adjustment Assistance Center assisted Dawson Industries in the development of its adjustment plan and loan application which culminated in November 1979 with the firm receiving a $1,000,000 working capital loan from the EDA. The firm also received implementation technical assistance which included an engineering study with emphasis on plant layout, pay incentive program and production scheduling.

This implementation technical assistance which was supplied as a cooperative venture between Metro NY TAAC and Southeastern Regional TAAC at a cost of over $100,000 became the basis for plant expansion from 40,000 sq. ft. to 132,000 sq.ft. This resulted in greater plant capacity and efficiency.

The benefits of the loan produced an obviously better cash flow, that allowed the company to expand and diversify its business, and increase its production and reduce unit costs. Instead of floundering, the business grew. In the past five years sales increased from $4.5 million to $27 million in 1982, while employment increased from 385 to 500. Obviously, profits jumped accordingly.

Metro N.Y.TAAC

Case Study

JOLIE HANDBAG, INC.
416 West 13th Street
New York, N.Y. 10014

Product: Ladies Handbags

Contact Person: Gerald Manowitz, President
(212) 691-5265

When Jolie Handbags, Inc. was certified in December 1978, its sales were $2.9 million and articles produced were 1,375,000 units. Employment at the time of certification was 140. Imports from Overseas had impacted the firm.

Metropolitan N.Y. TAAC diagnosed Jolie Handbag's problems and assisted the firm in the development of its loan application which culminated in November 1979 with the firm receiving a $850,000 working capital loan and $150,000 fixed asset loan from the E.D.A..

Jolie Handbag, Inc. has also received Marketing technical assistance. This assistance which was supplied as a co-operative venture between Metro N.Y. TAAC and the National Handbag Association became the basis upon which Jolie Handbag was able to adapt to the changing market place. For example, Jolie Handbag changed its market field from discount stores (low price handbags) to shoe and apparel chains (moderate price handbags) who are more fashion oriented.

The benefits of the loan and the technical assistance allowed the firm to increase its sales from $2.9 million in 1978 to $6.5 million in 1982, while employment increased from 140 to 219 during that time.

The management of Jolie Handbag, Inc. believes that the firm would not be in business today, if it were not for the Trade Act of 1974. Most importantly, profits continued to increase.

Metro N.Y. TAAC

Case Study

Dame Belt & Bag Co., Inc.
636 Eleventh Avenue
New York, New York 10038

Product: Belts & Handbags

Contact Person: Jeffrey Mehler
(212) 581-8030

Amid the current slump in the garment and allied needle trades industry, Dame has continued to increase its sales since being certified eligible for Trade Adjustment Assistance in 1976.

Sales have increased from $3 million in 1976 to approximately $15 million by the end of 1982. Metro N.Y. TAAC has helped Dame perform this dynamic turnaround by first assisting in obtaining an interim Small Business Administration loan of $300,000, plus Trade Act loans from EDA and supplying technical consulting assistance.

The job impact realized by Dame and New York City through the Trade Act of 1974 assistance is significant. 200 jobs were saved and an additional 135 jobs were added. Dame now employs a total of 335 people and employs hundreds more through the contractors it utilizes. Also, since Trade Act assistance, the company has seen earnings jump 23 times.

From a total Trade Act loan of one million dollars ($600,000 fixed assets, $400,000 company capital) through EDA - Dame has been able to purchase new production equipment, purchase raw materials at volume discounts, increase it's finished goods inventory and open new markets, including overseas. All of this has helped to reduce costs, and enabled the firm to service it's customers better. In addition, Dame added an Oleg Cassini designer line and also diversified into small leather goods (wallets, keychains, etc.) thus finding a niche which the imports did not affect.

Dame's performance is an inspiration to the entire handbag industry and to all import impacted firms; especially when we take into consideration that they will also amortize both their fixed asset and working capital Trade Adjustment Assistance EDA loans by the end of this calendar year.

Metro N.Y. TAAC

Case Study

Dunleigh-Tuxton Corporation
1 East 33rd Street
New York, New York 10016

Product: Men's Neckwear

Contact: George Bruder, Chairman
(212) 532-2873

In an otherwise lack-luster market, hurt by imports, Dunleigh-Tuxton Corp. made an impressive sales gain in fiscal 1982. Their sales increased 40% to reach an all time high for the company of $3.5 million. Net profits are expected to increase 250%. Employment rose to 70, an increase of 10%. These gains are largely due to the assistance of Metro N.Y. TAAC who provided the necessary technical assistance to develop a marketing niche for Dunleigh-Tuxton within the industry.

The company's operations were analyzed by Metro N.Y. TAAC and specialists were hired to develop a marketing plan for the company. The market most accessible to the company was chains such as J.C. Penny and Montgomery Ward. In-house sales operations were reorganized, management responsibilities redefined and a reporting system developed.

At the present time, additional Trade Adjustment Assistance is being provided by Metro N.Y. TAAC through outside specialists in the form of a production control system which will enable the company to produce more efficiently and effectively thereby lowering its production costs.

Without such technical assistance as provided under the Trade Act of 1974, this company would not be in the black as it is today. The company, by itself, could not afford to hire such expertise, therefore, its ability to overcome the impact of imports would have been severely hampered. Since management has been reeducated and their systems reorganized, Dunleigh-Tuxton Inc. is better prepared to face the ever increasing flow of imports.

Metro N.Y. TAAC

Case Study

Little World, Inc.
112 W. 34th St.
New York, N.Y. 10001

Friedrich Knitting Mills, Inc.
8400 73rd Ave.
Glendale, N.Y. 11227

Contact person: Ed Stalzer, Exec. V.P.
(212) 894-4500

Product: Knitted Infants and Childrens Wear

When Little World was certified in 1979 its sales were $4.9 million down from sales of $5.9 million in the previous year. Employment at the time of certification was 186. Imports from the Far East had impacted the firm.

Metropolitan NY TAAC diagnosed Little World's problems and assisted them in the development of its business plan which culminated in May 1980 with Little World receiving an $800,000 working capital loan from the EDA. The firm also received implementation technical assistance which included a marketing study and merchandising plan, and an engineering study with emphasis in the knitting areas, pay incentive program and production scheduling.

This implementation technical assistance, which was supplied by Metro NY TAAC at a cost of $70,000, became the basis upon which Little World was able to adapt to the changing market place. For example, Little World diversified its production by marketing woven bottoms that coordinated with their knitted tops. This has made their product more salable. The channels of distribution were also diversified to include chain stores. In 1982, total sales were $8,000,000.

In addition, the technical assistance provided in the production area alone resulted in a one year savings at least equal to the $70,000 spent on the total technical assistance.

The benefits of the loan produced an obviously better cash flow, that allowed the company to remain successfully in business. The firm has gone beyond its sales projection of $7.5 million to $8 million while employment increased to approximately 220 in 1982.

NORTHWEST TAAC ENGAGEMENT SUMMARY

Apparel Manufacturer — Management and Productivity

Background

The firm was established in 1972 as a contract operation specializing in fashion sportswear. When the market changed to outerwear, the firm was able to change with it and concentrated on down outerwear. In 1979, the company began to produce proprietary products in down outerwear. A reversal in the insulated sportswear business along with the impact of imports caused significant losses in 1980 and 1981. This downturn occurred both in contract work and proprietary business and affected the entire operation. However, prudent action enabled the business to switch from insulated fashionwear production back to ladies fashion once again, at great cost to the business. The proprietary line was dropped, and the firm is once again a contract operation only.

In October 1981, short term losses on the part of the firm coupled with an extended portfolio position of a small local bank resulted in the bank calling for its outstanding lines of credit and loans, even though all payments were current. All employees were laid off for two weeks and all inventory liquidated at a substantial loss. The firm was able to meet the demand, obtained releases from the bank, and put its work force back to work. The firm was able to obtain interim financing for operations.

Business Strategy

With the assistance of NWTAAC staff, the firm developed a business plan that called for increasing productivity, hiring a consulting systems analyst to improve the management information system, extending the short-term financing, reviewing the physical facilities and equipment, and arranging for additional capital.

Result of Business Strategy

The firm was able to hire a garment engineer who had 18 years of experience in the industry. A consultant for the systems analysis of the computer was hired with NWTAAC's help, and new payroll, accounting and costing systems have been installed. Because of these two factors productivity has increased, enabling the firm to cut its work in process time by 67 percent.

Sales were limited by production capacity. Physical facilities and equipment were reviewed and the firm has purchased a three acre parcel of land, and is in the process of constructing a facility nearby. The facility is triple the size of its present building and will enable the firm to expand the number of employees to 200.

A $310,000 SBA loan has been obtained for construction and working capital. NWTAAC staff helped the firm find bankers interested in participating with SBA. NWTAAC has also been involved in helping the firm apply for federal government contracts.

Since 1981, when NWTAAC became involved, the firm's revenues have almost doubled, and the company has turned from a significant deficit position to a healthy profit. Employment has increased from 60 to 140 employees, and will reach 200 with the completion of its new facilities. Total government assistance to the firm was $11,700, or $58.50 per job.

NORTHWEST TAAC SUMMARY ENGAGEMENT

Fireplace Furnishings | **Management, Marketing and Engineering**

Background

The firm manufactures fireplace mesh screens, glass enclosures and other fireplace accessories. It also manufactures wire mesh draperies for commercial decorative or security panels. The firm was incorporated in 1976, after splitting off from the parent firm, which was founded in 1932. Sales grew to nearly ten million dollars in fiscal year 1979. Subsequently, the firm was seriously impacted by a combination of import competition, a slowdown in housing starts and record high interest rates. By March 1982, sales levels had fallen to less than three million dollars.

Business Strategy

The firm's business plan provided for an orderly scale down in operations to more appropriately reflect actual market conditions. NWTAAC provided management advise and guidance during this period. The TAAC also assisted the firm in the accomplishment of debt restructuring to provide working capital.

New marketing channels of distribution have been put in place, which provide access to the national chain store market. Several new product lines have been developed to provide market diversification. Outside consulting assistance will be provided for market research and engineering necessary for successful development of the new product lines.

Results of Business Strategy

The firm expects to end fiscal year 1983 with a profit, after losses for two consecutive years. Current quarter sales are 30 percent higher than the same period one year ago.

One new product, a high quality design glass fireplace enclosure has been very well received in the marketplace. A second designer glass enclosure will be introduced in March 1983. With NWTAAC assistance, other new product areas are in various stages of development.

The firm has received authority to apply for an ITA guaranteed loan in the amount of 1.25 million dollars. The loan will provide machinery, equipment and working capital to support the growth anticipated from both new product sales and an expansion of existing product sales.

The firm will probably not reach its maximum employment level of nearly 200 again, because of improvements made to production efficiencies. However, as the firm continues its recovery and builds new product lines - - new jobs will be formed. Some of the new jobs will be of higher quality level than before.

NORTHWEST TAAC ENGAGEMENT SUMMARY

Fishing Rod Manufacturer | Marketing and Engineering

Background

This thirty-year-old firm produces fiberglass and graphite fishing rods and blanks. Sales, production, and employment peaked in 1976 at $2.6 million, 400,000 and 100 respectively. Fiberglass fishing rod imports were severely impacting sales and working capital to the point where foreclosure was imminent.

Business Strategy

An initial diagnosis of the firm identified the following major problems and constraints in addition to fiberglass rod imports: 1) Scattered facilities (six buildings, two locations), 2) overcrowding at plant sites, 3) loss of productivity - - 4.9 x annual employee turnover, 4) inefficient and insufficient manufacturing equipment, 5) lack of adequate working capital.

The business recovery strategy provided for consolidation of operations at one location, modernized equipment, improved cost controls and management reporting, as well as market and product diversification. A Trade Act loan for a combination of fixed assets and working capital in the amount of $998,000 was approved and is currently in place.

Result of Business Strategy

The turnaround has been effected. The consolidation of operations has taken place. Employee turnover has decreased to significantly less than industry norms. After initial

shakedown of consolidated operations productivity has met projections. Eighty-four employment positions are secure. Product and market diversification is being implemented in accordance with the business plan timetables and gives every indication of increased sales, production employment and profits.

NORTHWEST TAAC ENGAGEMENT SUMMARY

Fishing Flies and Tackle Manufacturer **Marketing and Engineering**

Background

The firm's president is one of the nation's foremost fly fisherman and fly tiers. The firm's hand tied flies are world famous for quality, balance, and other features; and it has developed and introduced many of the most effective trout and other fishing flies in use today. The firm is in its 45th year of operation, managed by the founder and his son. Sales fall into several classifications including wholesale/distributor, retail store, and mail order, representing 52%, 25%, and 23% respectfully of typical prior years' total sales.

Business Strategy

Springboard for the sales development programs of all divisions is the firm's flies, as this is the product for which the company is world famous. In recent years sales have been impacted by flies imported from Columbia, India, South Africa, and other foreign countries. This impact seems to have adversely affected all divisions, and the competitive import situation was (and is) not expected to become less severe.

A small, initial investigative analysis by an outside consulting firm diagnosed the firm's strengths and recommended long- and short-term marketing training implementation assistance which concentrated on expansion of the retail sales division (store and mail order) as the key areas which would provide long-term viability for the firm. Concurrently a small engineering consulting services contract helped solve a technical engineering problem for a specific product's riveting process allowing resumption of production and sales.

Results of Business Strategy

This plan was accomplished without the need for any government direct, or, guaranteed loans.

Wholesale division sales continue to be soft, finishing the fiscal year slightly lower in dollar sales volume and in real products sold as predicted in the pro formas, and investigation analysis.

Mail order sales are responding to the Business Plan actions even better than had been forecasted: 1) Requests for catalogs - - up 400%; 2) Number of individual mail orders - - up 43%; 3) Mail order sales volume - - up 50%, all on a year to year basis, for the first seven (7) months of the fiscal year.

The marketing program did not become effective until four (4) months into the fiscal year. The first four months sales were substantially below the preceeding year, and the above figures include overcoming those deficits. Sales for the fifth (5th) month were up 89% over the same month of the preceeding year, and the sixth (6th) month was double those (100%) of the preceeding year.

Seven new manufacturing positions were created.

Manufacturing wages (piece work) were up 20% over the preceeding year.

The increased manufacturing volume has resulted in the creation of two additional positions for order processing and handling.

Management has stated that without the marketing and engineering consulting services made available through this program they would have been forced to severely curtail manufacturing, and reduce employment correspondingly.

SUMMARY OF TRADE ADJUSTMENT TECHNICAL ASSISTANCE BY STATE

tate	FY - 79 & FY - 80		FY - 81		FY - 82		FY - 83 (est.)		Total		
	No. of Firms	$ Gov. Share	No. of Firms	$ Gov. Share	No. of Firms	$ Gov. Share	No. of Firms	$ Gov. Share	No. of Firms *	$ Gov. Share	No. of Firms still in business (1/31/83
onnecticut	23	45,939	16	36,881	11	73,852	23	155,586	65	312,253	59
aine	13	5,048	10	4,676	7	32,669	10	129,217	28	171,610	28
assachusetts	98	44,216	56	73,804	47	141,647	102	664,203	247	923,870	233
ew Hampshire	20	28,022	29	49,385	16	353,009	11	80,280	53	510,696	47
hode Island	11	12,139	13	20,363	5	8,838	12	108,380	33	149,720	33
ermont	2	1,573	3	9,044	6	22,790	11	154,759	15	180,066	14
ew York	185	476,198	77	299,429	103	800,023	36	427,179	197	1,802,829	180
ew Jersey	42	97,818	54	233,423	54	219,098	31	137,841	63	688,180	45
ennsylvania	123	190,000	99	510,300	69	265,000	48	582,000	180	1,547,300	159
est Virginia	24	56,350	5	37,100	3	5,000	4	25,000	26	123,450	15
aryland	20	20,000	12	21,700	13	23,300	10	90,000	49	155,000	45
irginia	11	26,500	12	19,000	4	24,400	6	16,700	22	86,600	21
elaware	-	-	1	100	1	300	2	3,000	4	3,400	4
ississippi	12	13,135	9	25,335	8	15,284	11	55,580	36	109,335	25
eorgia	28	14,041	30	72,404	34	163,505	19	92,530	83	342,480	68
outh Carolina	12	5,663	16	69,234	11	12,458	15	74,554	44	161,910	32
lorida	28	62,239	16	53,999	31	165,496	20	148,111	72	429,845	54

SUMMARY OF TRADE ADJUSTMENT TECHNICAL ASSISTANCE BY STATE

State	FY - 79 & FY - 80		FY - 81		FY - 82		FY - 83 (est.)		Total		
	No. of Firms	$ Gov. Share	No. of Firms	$ Gov. Share	No. of Firms	$ Gov. Share	No. of Firms	$ Gov. Share	No. of Firms *	$ Gov. Share	No. of Firms still in business (1/31/83
Kentucky	18	148,717	4	4,949	7	21,878	9	46,592	33	222,137	26
Tennessee	25	31,825	23	63,257	14	124,790	19	92,530	67	312,403	52
Alabama	8	9,120	14	62,974	11	10,301	14	70,756	31	153,150	22
North Carolina	26	64,961	12	160,304	26	52,049	25	127,038	73	404,353	51
Illinois	9	134,084	9	220,477	12	189,312	11	202,693	41	746,566	37
Indiana	6	71,095	4	85,457	8	191,178	15	344,896	33	692,626	30
Iowa	4	13,000	5	19,147	2	3,957	2	19,280	9	55,384	6
Michigan	1	10,829	6	85,623	7	171,366	16	274,980	30	542,798	28
Minnesota	5	49,365	4	49,687	1	9,508	1	10,591	11	119,151	9
Ohio	7	77,433	6	127,495	8	111,828	12	230,396	33	547,152	29
Wisconsin	3	29,882	4	52,997	5	42,421	3	142,475	15	267,775	14
N. Dakota	-	-	-	-	4	52,800	4	50,000	6	102,800	6
S. Dakota	-	-	-	-	2	25,800	3	50,000	4	75,000	4
Nebraska	-	-	2	838	4	38,300	5	90,000	10	128,300	9
Arkansas	11	11,000	6	45,000	4	13,500	4	9,800	15	79,300	11
Missouri	13	65,000	16	150,700	11	117,900	14	40,000	32	373,600	28
Louisiana	2	1,000	6	3,000	2	500	6	4,000	14	8,500	12
Puerto Rico	6	10,000	16	31,000	18	60,000	28	140,000	46	250,000	31

SUMMARY OF TRADE ADJUSTMENT TECHNICAL ASSISTANCE BY STATE

State	FY - 79 & FY - 80		FY - 81		FY - 82		FY - 83 (est.)		Total		
	No. of Firms	$ Gov. Share	No. of Firms	$ Gov. Share	No. of Firms	$ Gov. Share	No. of Firms	$ Gov. Share	No. of Firms*	$ Gov. Share	No. of Firms still in business (1/31/83)
Oklahoma	5	28,100	5	22,700	2	4,100	2	7,000	8	61,900	5
Texas	13	25,200	16	76,400	24	58,500	14	45,000	51	205,100	41
Kansas	3	2,500	2	1,100	5	12,000	2	15,000	7	30,600	6
Colorado	5	36,000	7	53,000	8	16,000	1	23	12	105,000	10
New Mexico	3	9,000	2	2,300	3	9,500	2	3,000	6	23,800	5
Wyoming	0	0	2	4,700	1	217	0	0	2	4,917	2
California	76	997,173	52	666,346	46	599,983	60	600,000	206	2,881,777	183
Nevada	0	0	2	10,000	3	10,879	4	80,000	6	62,876	4
Utah	1	10,000	2	5,454	2	20,323	5	100,000	1	135,777	4
Hawaii	1	15,000	3	13,962	8	57,310	11	110,000	19	196,047	13
Arizona	2	20,000	3	10,175	2	10,660	4	40,000	8	75,835	4
Montana	4	16,000	1	20,000	10	44,818	19	109,515	20	190,333	11
Oregon	10	57,500	13	38,000	22	69,309	32	389,000	46	553,809	32
Alaska	0	0	0	0	1	788	8	97,000	7	97,788	1
Washington	48	225,000	27	128,000	45	307,773	30	365,000	105	1,025,778	82
Idaho	0	0	1	7,000	3	18,890	16	195,000	16	220,890	7
Total	967	$3,267,665	733	$3,758,219	754	$4,805,107	772	$7,046,487	2,240	$18,741,766	1,877

* Each firm counted only once

SUMMARY OF ECONOMIC ACTIVITY
IN INDUSTRIES ASSISTED
BY DEPARTMENT OF COMMERCE INDUSTRY PROGRAM

Industry	Value of Shipments (Million $)	Value Added (Million $)	Total Employment (000)	Number of Firms	Imports as % of Total Consumption	Compound Annual Rate of Change: Value of Imports	Compound Annual Rate of Change: Total Employment	Major Producing States
1. Footwear Non-Rubber	683	406	22	192	50.2	26.0	(1.3)	PA, MI, MA, TN
2. Luggage	744	364	16	290	28	37.0	(1.2)	New Eng; Mid-Atlantic; CO
3. Leather Goods	2,017	532	18.5	465	11.5	18.1	(3.8)	MA WI NY NJ PA CA
4. Steel	39,396	14,059	429	1,193	16.6	10.0	(1.8)	East; North Central
5. Textile Machinery	1,190	675	26	638	46.9	13.3	(2.2)	Southeast & Northeast
6. Costume Jewelry	955	550	26.7	847	15.4	45.0	(2.6)	RI NY MA NJ CT CA
7. Consumer Electroncis	7,847	3,256	84	581	47.0	18.4	4.0	IL CA PA VA
8. Stainless Steel Flatware	560	305	9.1	258	23.5	19.7	(1.0)	MA CT NY IL
9. Red Cedar Shakes & Shingles	319	137	6	565	48.0	46.9	(14.0)	OR WA CA
10. Pipe Fittings	8,125	4,030	114	902	8.6	14.0	2.2	OH IL PA TX
11. Apparel/Textile	87,379	36,836	1,616	18,064	10.8	26.5	(1.3)	Southeastern; Mid-Atlantic
12. Paper Machinery	27,300	12,300	203	646	11.4	15.6	.8	GA AL LO WI OR ME
13. Vitreous China	187	152	7.3	28	50.1	19.0	6.2	PA WV NY NJ OH CA
14. Earthenware	106	78	4.8	23	62.4	18.2	(5)	PA WV NY NJ OH CA
15. Work Gloves	377	150.8	14	110	31.5	21.5	(39)	MI MN WI

SUMMARY OF ECONOMIC ACTIVITY
IN INDUSTRIES ASSISTED
BY DEPARTMENT OF COMMERCE INDUSTRY PROGRAM

Industry	Value of Shipments (Million $)	Value Added (Million $)	Total Employment (000)	Number of Firms	Imports as % of Total Consumption	Compound Annual Rate of Change Value of Imports	Compound Annual Rate of Change Total Employment	Major Producing States
16. Industrial Fasteners	4,200	2,496	68	500	50	15.0	(7)	OH IL PA TX
17. Handmade Glass	95	54	45.9	325	26.4	25	(29)	OH PA WS SC
18. Mushrooms Canned/Fresh	358.8	178.7	8	527	40	21	(22)	OH CA MI WA PA (50%)
19. Handbags	648	324	18	186	41	24.6	(4)	NYC
TOTALS	158,445	77,684	2,737	26,348				

Sources 1977 Census of Manufacturers, Department of the Census; Bureau of Labor Statistics

Summary of Alternative Financing Generated as a Result of Assistance from the Trade Adjustment Assistance Centers (TAAC)

TAAC	FY-79 and FY-80		FY-81		FY-82		FY-83(as of 1/31/83)		Total		
	Number of Firms	Amount	Number of Firms	Amount	Number of Firms	Amount	Number of Firms	Amount	Number of Firms*	Amount	Numb Thes Stil Busi
New York State	-0-	$ -0-	1	$ 60,000	6	$ 3,800,000	1	$1,000,000	8	$ 4,860,000	
Mid-America	1	2,000,000	-0-	-0-	2	2,400,000	-0-	-0-	3	4,400,000	
New England	6	4,565,000	15	35,900,000	20	30,680,000	-0-	-0-	41	71,145,000	3
Western	9	2,796,000	5	2,800,000	1	100,000	1	20,000	10	5,716,000	
Northwest	1	4,000,000	8	4,840,000	2	100,000	2	600,000	13	9,540,000	1
Southeastern	1	1,500,000	5	795,000	1	15,000	-0-	-0-	7	2,310,000	
Mid Atlantic	3	349,000	11	4,082,000	1	250,000	1	500,000	16	5,181,000	1
Rocky Mountain	N/A	N/A	N/A	N/A	-0-	-0-	-0-	-0-	-0-	-0-	-
Metro New York	13	3,780,000	14	6,990,000	17	8,240,000	4	1,990,000	21	21,000,000	1
New Jersey	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-
Mid-West	-0-	-0-	1	1,000,000	2	535,000	1	2,700,000	4	4,235,000	
TOTAL	34	$18,990,000	60	$56,467,000	52	$46,120,000	10	$6,810,000	123	$128,387,000	11

*Each firm counted only once

STATEMENT OF MR. HANS G. HOLLANDER,
PRESIDENT, PHP CORPORATION,
HARRISON, NEW YORK

Mr. Chairman and members of the Committee.

I am most pleased to submit this written testimony on the International Trade Administration's 1984 "Operations and Administration" budget request which I understand to be for some $144,900,000 and 2,382 positions. I will confine my remarks to ITA's export development and trade promotion activities; in particular, problems arising from ITA's competition with private sector firms, such as ours, in the solicitation of participants for overseas trade shows and the provision of marketing and exhibitor services at such shows.

Before I get further into my statement, let me explain a little about my background and the private sector trade show marketing and exhibition business. I personally have been involved in foreign trade promotion and marketing for over 20 years. My company, PHP Corporation, provides a wide range of services to U.S. firms seeking to exhibit their products or services individually or collectively at overseas aerospace shows. For example, our services include arranging for exhibit space, design and construction; developing marketing plans; and facilitating all logistical and on-site support. We offer these services at such major aerospace shows as the Paris Air Show, Farnsborough (U.K.) and Hanover (Germany). Our American Aerospace Industries Joint Exhibit at this year's Paris Air Show includes Grumman, Ford Aerospace, IBM Aerospace, GTE Sylvania, Edo International, Federal Express, IBM's Federal Systems Division, ITT Gilfillan, and Thunder Engines. In total, we have 23 participants in our joint exhibit at Paris this year.

Our company is but a small part of a $7 billion U.S.-based trade show marketing and exhibition industry which is available to service the needs of U.S. companies both here and abroad.

In addressing the scope of ITA's overseas exhibitor activities, I begin with the proposition that "[I]n a democratic free enterprise economic system, the Government should not compete with its citizens. The private enterprise system, characterized by individual freedom and initiative, is the primary source of national economic strength." Mr. Chairman, I am sure you will recognize this quote taken from OMB Circular A76, which every Administration since 1955 has endorsed and adopted as a fundamental limitation on Executive Department activities. In short, again quoting the Circular, "[T]he Government's business is not to be in business."

Unfortunately, ITA seems to have lost sight of this admonition. Rather than confining its role to the promotion of overall U.S. commercial interests at overseas trade fairs, or to facilitating export activity by businesses financially unable to take advantage of such opportunities, ITA actively solicits and provides marketing and exhibition services to U.S. manufacturers and suppliers which are quite capable of exhibiting overseas without direct ITA involvement. In so doing, ITA competes with and duplicates the private sector.

What is worse, since ITA recovers only its direct costs from participating private companies, the U.S. taxpayer winds up subsidizing unfair government competition against private businesses. At the same time, well-heeled U.S. companies are receiving a form of direct subsidy for their foreign marketing efforts which motivates them to go with the government because they are being subsidized. In a time of limited government resources, this amounts to an intolerable squandering of public funds.

Mr. Chairman, ITA's competitive infringement on private sector trade development activities is not a new subject for this Subcommittee. You will recall that similar policy concerns were raised several years ago by ITA's proposed Worldwide Information and Trade System (WITS). After substantial opposition by the private sector trade information industry, the Senate-House Appropriations Conferees imposed a limitation on ITA's operations and administration budget for FY 1980 directing ITA to "ensure that private sector efforts are enhanced and that ITA does not duplicate or compete with the private sector."

We are here to ask that this Subcommittee invoke a similar limitation on ITA's use of funds which result in competition against private sector export development and trade promotion services. We hold no brief against ITA's basic mission of export development and trade promotion. On the contrary, we think that the Department and ITA have a very important role to play in promoting overall U.S. commercial interests and in helping companies which under normal circumstances cannot afford to exhibit overseas.

But ITA's current marketing and exhibitor activities extend well beyond these objectives. They involve the expenditure of public funds for government services which are demonstrably unnecessary and, indeed, tend to discourage the fullest development of U.S. private sector trade promotion services.

The Subcommittee should also be aware that ITA purchases virtually no contracted services from the U.S. private sector trade promotion industry. On the contrary, ITA has historically solicited bids for such contracted services through U.S. Embassies abroad. Thus, the "contributions" to ITA made by U.S. companies exhibiting at ITA pavilions overseas go *directly* into the hands of *foreign*-based marketing and exhibition service providers. Perversely, ITA is therefore helping to develop and strengthen the *foreign*-based trade promotion industry at the *expense* of the counterpart U.S. private sector industry.

So long as ITA continues to provide marketing and exhibition services to companies capable of purchasing those services from the private sector, its mission of developing *overall* U.S. commercial interests will be distorted. Rather than being shaped by *broad national* interests, ITA's pavilions and exhibits will necessarily reflect the interests of those companies for which ITA acts as marketer and exhibit service provider. Rather than *supplementing* and *enhancing* privately-developed U.S. exhibits and marketing plans, ITA's exhibits will be competitive with those developed by the private sector and thus lose their distinctive governmental status.

ITA's role in showing to the world the great substantive merits of U.S. industries does not *require* that it become involved in providing marketing advice and exhibitor services which compete with companies such as PHP Corporation. For example, if the National Aeronautics and Space Administration wishes to display the Space Shuttle "Enterprise" at the Paris Air Show, as is now rumored, no one would doubt that ITA should assist NASA or that this is a proper role for ITA at that show. America's achievements in space, highlighted by the Shuttle program, obviously reflect well on *all* aspects of U.S. aerospace technology. The commercial interests of *all* existing U.S. exporters and potential exporters of aerospace products and services would be enhanced by such a national interest display.

But such promotion of overall U.S. commercial interests does not justify ITA's continued competitive infringement into the private sector exhibition marketplace, particularly when U.S. taxpayers are asked to subsidize marketing and exhibits for highly profitable U.S. companies whose purpose in Paris is to make private sales enhancing their profits. In short, ITA's proper governmental role provides no excuse for expending government funds to subsidize the sales and marketing budgets of U.S. corporations.

Mr. Chairman, I should add that I and my advisors in this matter have had several conversations with senior officials of ITA during the past year on this subject, including two meetings with Deputy Assistant Secretary Donald Earnshaw, who is in charge of export development. We have urged that ITA adopt internal policies which focus its trade development efforts on assisting U.S. companies which cannot, by reason of limited resources, exhibit at foreign trade shows. We have argued that, by so focusing its efforts, ITA will best fulfill its basic statutory mission and will thus permit private sector trade promoters, such as my company, to meet the needs of those U.S. businesses which no longer require direct ITA assistance to market overseas.

I can say that Mr. Earnshaw has openly admitted that ITA is subsidizing participants in the U.S. Pavilion at the 1983 Paris Air Show. He apparently believes, however, that this is justified as an adjunct to the overriding need to have a U.S. presence at this show. But, as I have demonstrated, the need to "show the flag" at Paris or similar shows does not justify squandering public funds on private corporations. Nor does it warrant governmental competition with those in the private sector who are in the business of promoting trade. If ITA is discomfited by having Embassy and other officials separated from U.S. exhibitors, then let them come and join us at our American Aerospace Industries Joint Exhibit. We would be more than happy to cooperate with our Government - we would even make space available to them if they so desired. In this manner, ITA would no longer waste public money subsidizing exhibits for private sector corporations. It could then marshall its resources on developing new exporters by assisting those U.S. companies which are unable to exhibit overseas for financial reasons without direct ITA assistance.

To sum up, I strongly believe that trade promotion and export development are vital to this country. Indeed, my company and dozens of other companies throughout the country are fully dedicated to just these activities. My main point is that ITA should expend its limited resources in developing new U.S. exporters while allowing the private sector to satisfy the exhibitor services requirements of those companies that are financially capable of displaying and marketing their goods and services overseas. This is a natural division of labor which sees ITA fulfilling its primary mission of trade promotion and export development in a manner which is fully compatible with a robust, companion private sector trade and export development industry. It also leaves untrammeled the fundamental precept that Executive Departments are not to duplicate or compete with the private sector.

I am, therefore, proposing for your consideration the attached limitation on ITA's operations and administration budget for fiscal year 1984. The language tracks very closely the wording of the Appropriations Conference Report on ITA's FY 1980 budget with reference to the WITS program. That is, ITA is urged to enhance private sector participation in export development and admonished not to duplicate or compete with the private sector in these activities. Specifically, funds here appropriated shall be expended only in connection with the promotion of products and services of U.S. manufacturers and service providers which cannot, by reason of resources, exhibit at overseas trade shows without ITA's direct assistance.

I thank you for your kind attention.

PROPOSED AMENDMENT

The ITA's operations and administration budget for fiscal 1984 should contain the following restriction on the use of funds:

> "The ITA should take steps to ensure that private sector efforts for expanding the export markets of U.S. industries are enhanced and that ITA does not duplicate or compete with the private sector in the development of these markets, in particular in the areas of soliciting participants for overseas trade shows and in providing exhibitor services and space at such shows. Funds here appropriated shall be expended only in connection with the promotion of products and services of U.S. manufacturers and service providers which cannot, by reason of resources, exhibit at overseas trade shows without ITA's direct assistance."

Statement of the
California Raisin Advisory Board

The California Raisin Advisory Board (the Board) under the auspices of the California Department of Food and Agriculture oversees the state marketing order for raisins. The Board represents over 4500 producers and processors of raisins who account for 100% of the U.S. and 30% of the world production.

The Board takes an active interest in matters of vital concern to the raisin industry including generic advertising, promotion and funding for research and producer information programs. We appreciate this opportunity to present a statement for the record strongly supporting the continuation of the Fruit Frost Forecast and Advisory Service.

For over 60 years, the Fruit Frost Program has provided the multibillion dollar fruit and vegetable industries in California, Arizona, Texas and Florida with accurate, site-specific minimum temperature forecasts and other advisory services. Armed with these detailed forecasts in advance of a frost, growers are better able to take the steps necessary for avoiding frost damage to crops. The "zone weather forecast" provided by the National Weather Service cannot take the place of the Fruit Frost Services as zone forecasts are not site-specific, and thus are of minimal use to the growers.

The Fruit Frost Service consists of highly trained agricultural meteorologists who closely monitor weather patterns which could be potentially devastating to frost sensitive crops. Information is gathered on a daily basis from numerous sites and carefully analyzed by meteorologists who then make site-specific forecasts for the various locations within their region. These forecasts are made available to the public through television, radio and telephone recorders.

The Fruit Frost Service is extremely important to the California raisin industry as more than 80% of the U.S. production is in a 500 square mile area in Fresno County, with the remaining 20% scattered throughout the state. With such a large percentage of the national crop concentrated within a small region subject to particular weather changes, the California raisin industry depends heavily upon the Fruit Frost Service for accurate and timely site-specific forecasts. It is estimated that in the San Joaquin Valley alone, the Fruit Frost Forecast and Advisory Service saves the industry roughly 10% of the crop value through more efficient use of irrigation, reduced and better time sprays and nutrients, and accurate forecasts provided during the harvesting and drying period.

The California Fruit Frost Forecast and Advisory Service covers those areas where frost sensitive crops are grown, from the Northern Sacramento valley to the Mexican border. It is estimated that over $1 billion of the $15 billion California agricultural output is frost sensitive. Further, the estimated annual crop-loss savings in California alone approaches $70 million.

The California Raisin Advisory Board is deeply concerned with Department of Commerce's decision to again eliminate the Fruit Frost Forecast and Advisory Service. This $418,000 program returns millions of dollars in lost crop savings to the producer and consumer each year. In fact, program audits indicate that the Fruit Frost Service has the highest cost-benefit ratio of any division within the National Weather Service. Further, it would be extremely difficult, if not impossible for the private sector to take over this program without an interruption in service. Additionally, any move to the private sector would undoubtedly result in a disruption of service. If an interruption in service occurs, the losses to both producers and consumers could quickly run into millions of dollars.

The California Raisin Advisory Board strongly urges this Committee to reevaluate the Commerce Department's decision to end this valuable program. We implore this Committee to recommend continued funding of the Fruit Frost Program at a minimum level of $418,000 annually. To this end, we recommend that funds be appropriated for a minimum three year authorization at current funding levels with appropriate increases for inflation and employee benefits.

Respectfully submitted.

Clyde Nef

Clyde E. Nef
Manager
California Raisin Advisory Board

STATEMENT OF THE CALIFORNIA-ARIZONA CITRUS LEAGUE

My name is William Quarles and I am President of the California-Arizona Citrus League (The League).

The league is a voluntary, non-profit trade association composed of marketers of California-Arizona citrus fruits. Members are farmer cooperatives and independent shippers representing over 75% of the 10,000 citrus fruit growers in Arizona and California. These growers produce oranges, lemons, grapefruit, tangerines and limes.

The League appreciates the opportunity to present its views on a matter of industry concern, namely the need to preserve the Fruit Frost Forecast and Advisory Service Program. The Fruit Frost Program, administered by the National Oceanic and Atmospheric Administration provides citrus and fresh fruit and vegetable growers in California, Arizona, Florida, and Texas with detailed site-specific minimum temperature forecasts and other advisory services that support implementation of

measures for avoiding or lessening frost damage to crops while "zone forecasts" issued by the nearest National Weather Service forecast office for the areas involved include both maximum and minimum forecasts, such forecasts are not site-specific and thus are of marginal use to farmers now served by the Fruit Frost Program.

The Fruit Frost Program consists of trained agricultural meteorologists who monitor conditions which could damage crops. Information is gathered on a very detailed basis--often down to the square mile--and is disseminated to interested persons through television, radio and telephone recorders. For example, the California Fruit Frost Service is able to cover those areas where frost sensitive crops are grown, through a network of eight regional and 9 district offices stretching from the Northern Sacramento Valley down to the Mexican border. Of the $15 billion worth of California Agriculture, over $1 billion is frost sensitive. The estimated annual crop-loss savings in California alone approaches $70 million.

The National Weather Service estimates that there are approximately $1.6 billion in weather-related crop losses each year. In addition, weather impacts other areas of agriculture by causing reduced yields associated with plant and animal diseases, insects, pollution and water use. These additional weather-related losses are estimated by the National Weather Service at $9 billion annually. While these losses cannot be avoided entirely, it is possible to reduce agricultural losses significantly through better forecasts and information.

The Fruit Frost Forecast and Advisory Program in California has been in existence for over 60 years, serving many segments of California agriculture extremely well. Indeed, program audits have shown that of all the Weather Service programs (which provide an estimated return of $20-30 in crop and livestock savings for every dollar spent) the Fruit Frost Program has one of the highest cost-benefit ratios. Additionally, the Fruit Frost Program provides much more than minimum temperature forecasts. It provides complete weather advisory forecasts to the agricultural community. It also provides information on spray and dusting weather, winds, high temperatures, humidity, rainfall and rainfall amounts, and orchard dry times.

The information provided by the Fruit Frost Program is also of importance in the various Integrated Pest Management (IPM) Programs which have been implemented in the past several years. An important factor in these IPM Programs is accurate and timely weather data. Without good weather data we cannot accurately predict insect and disease life cycles. Therefore we cannot effectively time control measures where warranted.

The members of the League were most distressed to learn of the Administration's proposed elimination of this vital program again this year. The League's members are also puzzled as to why this program has been targeted for elimination. Under the continuing resolution, the program is funded at $418,000 for the current fiscal year. As noted above, the benefits produced by the program far exceed its small cost. Further, it would be very difficult if not impossible for this program to be operated by the private sector without an interruption in service. It must be remembered that even one year's break in service could prove disastrous to the agricultural community and the consumers of the nation. The successful operation of this program requires skilled personel to conduct the forecasts together with the technical hardware necessary to develop the required data. Both of these items are not presently available in the private sector.

The League strongly urges that the Committee correct the shortsightedness of the Commerce Department in proposing to eliminate the Fruit Frost Program. We suggest that funds be appropriated for the Program, at current levels, with appropriate increases for inflation and employee benefits.

Respectfully submitted.

William K. Quarles, Jr.

William K. Quarles, Jr.
President
California-Arizona
Citrus League

HELP ENDANGERED ANIMALS
RIDLEY TURTLES

3902 Gladebrook Court
Houston, Texas, 77068
April 23, 1983

The Honorable Paul Laxalt
Chairman, Subcommittee on Commerce,
Justice, State, The Judiciary and
related agencies.
Senate Appropriations Committee
Room S-128, Capitol
Washington, D.C. 20510

Re: Statement of HEART (Help Endangered Animals-Ridley Turtles) regarding the Fiscal Year 1984 Budget of the National Marine Fisheries Service, Department of Commerce

Dear Congressman Laxalt:

HEART (Help Endangered Animals - Ridley Turtles) thanks you for the opportunity to comment on the proposed Fiscal Year 1984 Budget of the National Marine Fisheries Service of the Department of Commerce. We ask that our comments be inserted into the record of the April 20, 1983, hearing regarding this matter. We also ask that the enclosed newspaper clipping about HEART be inserted into the record.

Our organization, HEART, formed as a result of the intense interest in the National Marine Fisheries sea turtle "headstarting" project of the Kemp's ridley sea turtle. The project being carried on at their Galveston, Texas, laboratory has attracted the interest of hundreds of students, teachers, parents and the general public although our organization is quite new. This project is a unique success story of the cooperation of the United States and Mexico as well as a number of our own agencies: National Marine Fisheries, National Park Service, Texas Parks and Wildlife and the Coast Guard as well. As the existence of our organization becomes known, we are being contacted by people in other states, many of them far from the Gulf of Mexico, who are interested in this project and concerned about the Kemp's ridley sea turtle whose existence now depends on the continuation of this excellent program. We ask that you consider our comments are representative of many concerned Americans.

Our request is that complete funding of the Kemp's ridley sea turtle project at the Galveston Laboratory of the National Marine Fisheries Service be continued.

As the enclosed newspaper article explains, the Kemp's ridley has declined from 40,000 nesting females in 1947 to less than 500 today. And to further complicate the matter, they choose to nest ONLY on one beach in Mexico. With cooperation between our two countries, a quota of eggs is brought each year to the United States where attempts are made to "imprint" the hatchlings at our National Seashore at Corpus Christi, Texas, so that a second nesting site may be established when the baby turtles mature in some eight to ten years. Time is needed to continue this imprinting.

The "headstarting" of the hatchlings at Galveston until they are about one year old and are vigorous and strong insures a fantastic survival rate once the turtles are released. The scientists at Galveston have learned much about turtles from this headstarting program. Since sea turtles have existed from prehistoric times and have become threatened and endangered only since man came upon the scene, it seems high time we learned about them.

If funding for this program is not continued, we will be cutting a tremendously successful scientific effort as well as a 1-in-a-million example of the fine cooperation of two countries and many of our own agencies. The Kemp's ridley sea turtle may well disappear in a few years if further research and headstarting cannot be continued and protection given.

Just a few days ago, the results of the Houston Area Survey conducted by Rice University were announced. Seventy-one percent of those polled stated that "protecting the environment is so important that continuing improvements must be made, regardless of cost." That percentage represents an eight per cent increase over the last survey even though Houston is caught up in a period of high unemployment and the oil and gas industry is at low ebb.

The Kemp's ridley sea turtle is part of the environment that America is concerned about. Please continue funding the National Marine Fisheries budget so their important work can be carried on. Without exaggerating we can say that the existence of this marine animal depends upon the wisdom and foresight of your committee and its decision. Until a new nesting site is established and the Kemp's ridley sea turtle population has been increased, the future of this beautiful creature of the sea is greatly in doubt.

Thank you for considering our comments.

Respectfully,

Carole H. Allen

Carole H. Allen
(Mrs.)
HEART VOLUNTEER

The Houston Post

Survival course

The ridley sea turtle became a victim of its own popularity, or at least of its eggs' popularity. The ridleys' only nesting beach was on the Gulf of Mexico. As recently as 1947, some 40,000 females laid eggs on a 20-mile stretch of remote beach at Rancho Nuevo, Mexico. But in recent years fewer than 500 turtles have come ashore at nesting season. The turtle eggs are tasty and some time back word went out that they act as an aphrodisiac. As a result, more eggs were being eaten each season than were being left to hatch and replenish the species. Scientists fear the ridleys may have declined to the point of no return.

Now the hope for them lies in a project of scientists and volunteers on Padre Island. Adult sea turtles return for reproduction to the beach where they were born. Biologists theorize that by bringing the eggs from Mexico to Padre Island to hatch, some biological imprint may lead the turtles back there when the nesting instinct surges.

Mexican and U.S. federal agencies moved to halt the drift to extinction in 1978 with a two-part effort; the first to protect the last members of the Mexican breeding colony and the second to establish a new breeding ground at the Padre Island National Seashore. Biologists and volunteers gather the eggs in Mexico and incubate them in the Padre Island sand. Then to prepare them for survival in the wild, the hatchlings are cared for at the Galveston facilities of the National Marine Fisheries Service until they have grown from one ounce at hatching to two pounds or more after 10 months. Only then, given this headstart, are they released into the Gulf.

Since 1978 the service has released 6,812 turtles back into the Gulf, or 76.6 percent of the hatchlings received. Less than 1 percent would have survived left in the wild. By tagging all the ridleys and attaching radio transmitters to about 10 a year, the scientists can track and monitor progress and growth. Many, when recaptured, have doubled or tripled in weight. Some have traveled more than 1,000 miles from their release site.

Is the project a success? Nobody can know yet. The ridley sea turtles take over 10 years in the wild to reach reproductive age. Will these come back to Padre Island where they hatched? Their survival as a species depends on it — and on the wonderfully patient men and women who capture, hatch, tend and release them with a good start on a long life in the balmy waters of the Gulf of Mexico.

The Houston Post
Sun., Feb. 13, 1983

Concerned children turn from armadillos to threatened turtles

By TERESA BYRNE-DODGE
Post Reporter

Recent letters received by the president of the United States, postmarked Houston, carried these messages:

Dear President Reagan,

I am Amy Weaver from Oak Creek Elementary School. We in third and fourth are studying about the ridley turtle. How can we help them? Please write back when you have time. Tell Mrs. Reagan I said, "Hi!"

Your follower,
Amy Weaver

Dear President Reagan,

Will you help us third graders keep the ridley turtle alive? It has a lot of enemies in this time. When the ridley turtle is hatched the birds and crabs eat the ridley turtle. The most dangerous enemy is man. The men dig the eggs up and they sell them to people and they eat them.

Love,
Jason Battelle

Dear President Reagan,

In Oak Creek Elementary we are starting a council to help save the ridley turtle. The reason I am writing is so that maybe you could help by asking people to help save the ridley. I am in the fourth grade, third grade is also helping, but that's still not enough. Please help.

Yours truly,
Kristy Massey

Youngsters at the Oak Creek Elementary School, north of FM 1960 near Steubner-Airline, have taken up the cause of the Kemp's ridley turtle. And for this remarkable but much-abused heart-shaped sea turtle, named for 19th-century biologist Richard Kemp, it's a valentine that is long overdue.

Six years ago, the students, faculty, principal Pat Reynolds and several interested parents formed the King Oak Nature Club at the school. Carole Allen, the parent coordinator of the club, has since led kids in a successful crusade for the armadillo and now hopes to rescue the ridley.

Last month some 30 young students formed a council called Help Endangered Animals — Ridley Turtles. HEART's purpose is to give students the opportunity to learn about the international program to re-establish the Kemp's ridley turtle, which is currently the most endangered of the marine turtle species. It also will give the kids a chance to stretch their political muscle and, perhaps, develop friendships with Mexican school children.

ALTHOUGH THE ADULT TURTLES *(Lepidochelys kempi)* roam the Gulf of Mexico and all over the Atlantic, female ridleys always return to the same short beach in Rancho Nuevo in Mexico to lay their eggs. In the 1940s, when the ridleys' breeding ground was first discovered by the outside world, 40,000 females came ashore to lay eggs every year. Today, fewer than 500 come ashore. Their sole nesting grounds have made them easy targets for plunder by humans (some believe turtle eggs are an aphrodisiac) and natural predators, including birds and crabs. In 1966, Mexican national guardsmen began patrolling the beach to protect the turtles from the human poachers who once loaded the eggs by the ton into trucks to sell at market.

Since 1978, the National Marine Fisheries Service, in cooperation with the Mexican government, as well as the U.S. Fish and Wildlife Service, Texas Parks and Wildlife Department and the National Parks Service, has worked on an experimental project to save the ridleys from extinction.

Several hundred turtle eggs are collected in the early summer at Rancho Nuevo which is about 200 miles south of Brownsville, when the huge female turtles drag themselves out of the sea to lay their eggs. The clutches of eggs, as they're called, are then moved to the Padre Island National Seashore for incubation (about two months), hatching and "imprinting" briefly in the sand; the newborns also get a baptismal swim at the water's edge. They are then scooped up with nets for transporting to the NMFS's laboratory in Galveston.

IN GALVESTON THE TINY hatchlings, which are about the size of a quarter, are carefully nurtured — or "head started" — for a year. The 1,500 babies live in individual buckets and are fed vitamin-enriched turtle pellets. By the time they are released back into the ocean a year later, the turtles are the size of a small dinner plate and weigh 500 times what they did when they were first hatched. This year's current crop boasts a 95 percent survival rate so far, says Dr. Edward Klima, director of the Galveston lab. In the wild, only 1 percent of the babies would live to be a year old.

The program is only experimental, emphasizes Klima, but it may prove to be the key by which to save the ridley. The success or failure of these efforts will become apparent a few years down the road when the kids of Oak Creek Elementary are entering high school and the mature turtles return to a beach to breed. Will it be the Padre Island beach, or will they return to Mexico? Or will they live long enough to breed at all?

In Galveston, HEART members visit head-started turtles

— Post photo by Teresa-Byrne Dodge

FISHING NETS AND POLLUTION are two more dangers the turtles encounter in the wild. "They love to eat little oil globules — tar balls," says Klima, "which can do much harm. We're keeping a brood stock in case everything fails apart."

He explains that in addition to the hundreds of head-started turtles that have been tagged and released every summer for the past three years, 50 more turtles are being raised in captivity in aquariums around the country, including Galveston's Sea-Arama, just in case the ridleys are already too decimated to make a comeback.

Klima originally was a shrimp specialist who studied marine biology from the food-resource angle. Now his heart is in preserving the ridley turtles. "As a concerned biologist, you can't help not knowing what's going on," he says, referring to the species' fight for life.

UNFORTUNATELY, REAGANOMICS has hit the turtle project hard, and future funding and staffing for the project are uncertain. Club leader Allen and the Oak Creek kids hope that as a result of their metal can recycling and other fund-raising additional funds might be donated through the HEART program to be used to purchase food pellets — the students learned that a year's supply of food pellets for one turtle costs $4 — or for further research, such as growth studies, behavior investigations, microbiological and pathological research.

Students at Oak Creek were also responsible for spearheading the effort to have the nine-banded armadillo named Texas' state mascot. It took three years, thousands of schoolchildren's efforts and many disappointments.

The original resolution, introduced to the House by state Rep. Don Henderson of Houston, was approved by the House but voted down by the Senate — twice. However, Sen. Jack Ogg of Houston, also an armadillo fan, was elected leader of the Senate. When, as is traditional for the Senate leader, he was governor [illegible] a day on Oct. 3, 1981, he promptly proclaimed the armadillo the official state mascot, thereby delighting thousands of armadillo-loving Texans.

BESIDES PARTICIPATING in a program to bring a species back from the brink of extinction, the young members of HEART are learning a good lesson in grassroots government as they lobby on behalf of the ridley.

U.S. Rep. Jack Brooks, whose district includes Galveston, is the ridley turtles' advocate in Washington, D.C. The children at Oak Creek have written him, as well as President Reagan, asking for moral and funding support for the turtle.

"If people don't care, there's no way we'll keep the turtles from extinction," says fifth-grade student Marcel Meyer, president of the school's HEART turtle council. And if man continues to turn away from the problems he's created, "pretty soon we won't have a population of animals at all." Fourth-grader Melissa Ungerleider believes "other kids should start caring and try to get the adults not to kill (the ridleys)."

ALLEN, WHO NURSES INJURED turtles and describes her home as "a kind of half-way house for turtles caught in suburban building," is currently working to set up a pen-pal program between the HEART kids here in Houston and Mexican schoolchildren who live near Rancho Nuevo. She hopes that kids with a common interest will become adults with common interests.

The King Oak Nature Club has more than 600 student members and 97 adult helpers. Each grade has its own chapter and its own name and activities. The Little Critters, for example, are the 85 kindergarteners; the Busy Beavers are the fourth-graders. The club members recently finished a nature trail across the street from their school in a wooded area; it features two outdoor classrooms with log stumps for seats. They also started a nature library in their school with books, magazines and exhibits, which they named for Dan A. Hoover, an Illinois native who wrote a number of stories for Ranger Rick's Nature Magazine over the years. "We have these kids tuned into nature," says Allen.

About 30 kids are members of the ridley turtle council that organizes turtle-related projects. They are currently applying for non-profit status through the Internal Revenue Service so that they can collect money for the ridleys. In the meantime, money from their fund-raising is being held in trust.

A GOOD PRIMER TO LEARN about the ridley turtle and the Mexican-American project is *The Heartbreak Turtle*, an hour-long television program made for PBS by local producer Mim Korshak. It tells the tale of this "most endangered of all endangered species," the distinction awarded to the ridleys in 1968 by the International Union for the Conservation of Nature. The program is scheduled to be rebroadcast on Sunday, March 20, on Channel 8.

Those interested in finding out more about the Oak Creek HEART Turtle Council may write HEART, P.O. Box 681231, Houston, 77268-1231.

WRITTEN STATEMENT OF DR. WILLIAM Y. BROWN
SENIOR SCIENTIST
ENVIRONMENTAL DEFENSE FUND, INC. (EDF)

Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to provide you with a statement on the fiscal year 1984 budget of the National Oceanic and Atmospheric Administration. This statement presents information and recommendations on the budget of the National Marine Fisheries Service (NMFS). Three areas of particular concern to EDF are addressed because of their importance to the conservation of nature and because of our standing commitment and expertise in them: habitat conservation, protected species, and the Antarctic. The Administration has proposed substantial cuts in the first two areas and has proposed no funding for Antarctic research despite recent treaty obligations. We respectfully request this subcommittee to approve at least current funding levels for habitat conservation and protected species and to approve at least $520,000 for a NMFS Antarctic program. Specific recommended appropriations are set forth in the attached budget summary.

Habitat Conservation

The Administration has proposed a cut of $5,967,000 or 45.2 percent in the habitat conservation program of NMFS. This program is a cornerstone of federal protection afforded wetlands throughout our nation's coast. The program generates the information and expert advice necessary to minimize the impact of development activities on these fragile and important ecosystems.

Wetlands are critical to the survival of fish and wildlife, the maintenance of water quality, groundwater recharge, and flood control. Conservatively, wetlands support a $12 billion per year commercial and recreational fishing industry. In Alaska, some 25 percent of the work force is employed in the salmon industry and the livelihood of these people depends upon the preservation of pristine streams and wetlands where salmon breed. On the Atlantic and Gulf Coasts, species dependent on wetlands make-up two-thirds of the cash value of all fisheries.

Wetands serve as natural pollution treatment plants. For example, the town of Wildwood, Florida (pop. 2,500) has treated its sewage in a 500 acre cypress-gum swamp for the last 19 years. Wetlands also serve as natural filters for removal of suspended sediments, removing silt that otherwise would degrade reservoirs, rivers and harbors.

Wetlands are natural sponges and hold water long enough for recharge into the ground. Well water recharged in one year from each wetland acre in Massachusetts has been calculated to save $6,044 over the least expensive alternate source.

Because they hold water like sponges, wetlands prolong and moderate runoff after heavy precipitation or snow melt. In the Boston area, 8,422 acres of wetlands near the Charles River prevent an estimated $3,193,000 in flood damages each year.

The Army Corps of Engineers, a key beneficiary of the NMFS program, administers the principal federal program for wetland protection, established under Section 404 of the Clean Water Act, 33 U.S.C. §1344. Section 404 authorizes the Corps to issue permits for otherwise prohibited dredge and fill activities in wetlands. An estimated 148 million acres of wetlands are covered by the program.[1]

The Corps processes some 9,700 individual Section 404 permits each year. On average, 49 percent of permit applications have been approved as requested, 33 approved with modification, 16 percent withdrawn, and 2 percent denied. Modifications cut wetland loss and frequently also reduce rather than raise the project costs of permittees. Overall, the cost of compliance with Section 404 averages less than one percent of project value.

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[1] These and other program statistics are contained in an Army Corps of Engineers Impact Analysis of the Corps Regulatory Program (Draft, November 1981).

The Corps estimates that permit modifications cut wetland destruction by one-half of what would occur if projects went ahead unchanged. Such modifications are estimated to reduce wetland loss in the contiguous States by 330,000 acres per year. Permit modifications are usually based upon the recommendations of NMFS or its upland counterpart, the U.S. Fish and Wildlife Service. If the habitat program of NMFS loses its already limited resources, our nation will lose wetland resources of incomparably greater value.

For the reasons above and other similar benefits not discussed, we recommend at least the maintenance of the NMFS habitat conservation program at the current base funding levels for its two budgetary components: (1) the habitat research program under the resource information line item and (2) the habitat conservation line item.

Protected Species

The Administration has proposed a cut of $680,000 or 41.5 percent in the protected species biology program. This reduction would disrupt activities critical to the conservation of endangered species and marine mammals. Among the unfortunate effects of such reductions would be delays in field trials of a "turtle excluder device" for use on shrimp trawlers. Limited testing in the Atlantic has shown that the device may virtually eliminate the incidental capture and mortality of endangered and threatened sea turtles while improving the efficiency of shrimp harvesting. Many expect that this device (fondly called the "TED") will prove generally effective in preventing incidental capture of sea turtles and soon will be widely adopted by the shrimp industry on a voluntary basis. This expectation has stayed EDF and other conservation organizations from litigation and other efforts at a regulatory fix. However, the killing of sea turtles in shrimp trawls is a grave conservation problem and voluntary adoption of the TED may fail as a solution if the NMFS does not proceed agressively to refine the device and to demonstrate its value.

Other necessary activities also would disappear if this cut in budget is approved. Among these are important surveys to assess sea turtle populations and research on the Dall's porpoise.

The NMFS spends too little now on endangered species and marine mammals. Adoption of cuts proposed by the Administration would be a serious mistake. Hence we urge the Subcommittee, at minimum, to maintain the protected species biology program (resource information line item) at the current base level.

Antarctica

NMFS staff recommended establishment of a $520,000 or, minimally, a $315,000 Antarctic marine living resources program for fiscal year 1984. However, the Administration has not proposed funding for this important activity. The United States must establish such a program if it is to effectively participate in the implementation of the Convention on the Conservation of Antarctic Marine Living Resources ("Convention"), and EDF respectfully requests this Subcommittee to approve an appropriation of $520,000 for such a program (resource information line item). Because the program would be new, background information is provided below.

The Convention entered into force on April 7, 1982. The United States is a party. Signatories besides our nation are

Argentina, Chile, U.S.S.R., Poland, Japan, East Germany, West Germany, France, Belgium, United Kingdom, Norway, Australia, New Zealand, and South Africa. Inaugural meetings under the Convention were held in Hobart, Tasmania from May 25 - June 11, 1982; the next meetings are likely to be held in Hobart in the Fall, 1983.

The Convention was negotiated because a potentially massive, unregulated harvest of krill and other species could disrupt the Antarctic ecosystem and further threaten the survival of the endangered whales that feed on krill.

Krill are that group of crustacean species which are eaten by baleen whales. The krill species Euphausia superba, a shrimp-like creature growing to about two inches in length, is the most abundant by far and is the only commercially valuable species.

Krill are found in the Southern Ocean south of the Antarctic Convergence. They occur in open water and under ice. An estimated 200 to 600 million tons of krill are present during the Antarctic summer. Krill often collect in large swarms varying from a few meters to several kilometers in diameter and extending downward from the ocean surface to about 100 meters. These swarms facilitate predation by whales, seals, penguins, other birds, fish, squid, and also man. Krill is the main animal prey species in Antarctica. Consequently, any substantial harvest of krill could significantly affect many predators, including in particular endangered whales. Krill has been harvested by ships from the U.S.S.R., Japan, Chile, West Germany, Poland, Norway, Taiwan, East Germany, Spain, Korea, and perhaps other nations. Current harvest, mostly by the Soviets, may substantially exceed 500,000 tons per year. Potentially, harvest may reach millions of tons per year and, if not regulated, could significantly reduce krill abundance.

The Convention establishes principles of conservation which encompass all species of the Antarctic ecosystem that may be directly or indirectly affected by harvest. The principles address the status of the Antarctic ecosystem as well as its constituent species, as contrasted with other authorities that generally address only the effect of harvest on target species and protect only mammals and birds.

The Convention works through a regulatory Commission and an advisory Scientific Committee with the authority to impose a panoply of conservation measures.

The United States has no fishery in the Southern Ocean nor a substantial program for assessing the effects of fisheries on Antarctic marine ecosystems. Lacking either of these activities undermines the expertise and the influence of our nation in the implementation of the Convention. Whether or not our national economy ever will favor a domestic Southern Ocean fishery, our long-standing conservation interests in endangered species, marine mammals and the Antarctic justify and make imperative the expeditious establishment of a substantial program of directed research. Furthermore, the fruits of directed fisheries research could be useful in determining whether a domestic fishery should be established.

The United States maintains a strong presence in the Antarctic through a program of the National Science Foundation ("NSF"). Most of the NSF Antarctic program budget goes to the cost of maintaining and transporting people and facilities. The remainder goes to funding specific basic research that is approved for funding through the usual peer review process applied to grant applications throughout NSF. That process has been effective in ensuring the generally high quality of projects receiving support and in maintaining a strong U.S. commitment to basic science. However, neither the NSF process nor the agency itself is well structured to undertake the applied research necessary for sound implementation of the Convention. That effort is better principally the responsibility of the National Oceanic and Atmospheric Administration which, through the NMFS, has long supported and carried out studies to assess the effects of international fisheries. Of course, such a NMFS Antarctic program must be coordinated with NSF because of the latter's role in providing logistic support and because of the potential for useful interaction between funded projects. Both agencies must then coordinate with the Commission and Scientific Committee of the Convention.

Both NSF and NMFS appear to agree in principle on a division of responsibility between basic and directed research in the Southern Ocean, but whereas NSF has requested and received appropriations to carry out its perceived mission in Antarctica, NOAA has reserved a seat on the Antarctic express but failed to buy a ticket.

The projects that NMFS staff can undertake with a $520,000 appropriation in fiscal year 1984 will get that agency underway. The projects include four krill assessment studies which would implement recommendations of a committee of the National Academy of Sciences and of the ad hoc Scientific Committee on the Antarctic convened by NMFS, the State Department and the Marine Mammal Commission. NMFS also can study competition and predation in the Southern Ocean with these funds. I believe that a $520,000 appropriation is bare bone because of the cost of information compilation and exchange which is easily underestimated in implementing this kind of agreement. Hence, EDF respectfully recommends approval of this amount by the Subcommittee.

Attachment

SUMMARY OF ENVIRONMENTAL DEFENSE FUND RECOMMENDATIONS ON THE FISCAL YEAR 1984 BUDGET OF THE NATIONAL MARINE FISHERIES SERVICE

Activity: Marine fishery resource programs (OR & F Budget).
Subactivity: Information collection and analyses.

Line Item: Resource information.

- Habitat Research Program
  FY 1984 Base: $8,465,000
  FY 1984 Administration Proposal: $3,922,000
  Proposed Cut in Program: 53.7%
  EDF Recommendation: $8,465,000 (restore to FY 1984 base level)

- Species Biology Program
  FY 1984 Base: $1,640,000
  FY 1984 Administration Proposal: $ 960,000
  Proposed Cut in Program: 41.5%
  EDF Recommendation: $1,640,000 (Restore to FY 1984 base level)

- Antarctic Marine Living Resources Program
  FY 1984 Administration Proposal: • • •
  EDF Recommendation: $520,000

Subactivity: Conservation and management.

- Line Item: Habitat Conservation.
  FY 1984 Base: $4,739,000
  FY 1984 Administration Proposal: $3,315,000
  Proposed cut in line item: 30.0%
  EDF Recommendation: $4,739,000 (restore to FY 1984 base level)

STATEMENT OF

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

This testimony is being submitted by the New York State Department of Environmental Conservation to highlight the impacts upon Department programs, responsibilities and interests of the proposed major reduction in National Weather Service capabilities in New York. These are not the only serious impacts that the reductions would have on State agencies, local governments and agricultural, commercial and industrial interests. We earnestly request that the subcommittee give serious consideration to the concerns of this agency and other testimony which may be submitted by other New York interests. We urge that no reductions be made in National Weather Service capabilities in New York but rather that they be restored to the FY 81 level.

The proposed budget for FY 84 would result in a reduction of services at New York City, Buffalo, Rochester, Syracuse and Albany; the downgrading of the Albany office from a Weather Service Forecast Office to a Weather Service Office; and the elimination of the Regional Hydrologist. With the reduction in staff and/or hours of operation, hydrological and meterological forecasts and warnings will be reduced or eliminated. Attention to detail and the surveillance necessary for hazardous weather and flood warnings, particularly in flash flood areas, would be seriously handicapped. The collection, assimilation and dissemination of large amounts of hydrologic data would have to be reduced along with its concomitant coordination with the State and County Civil Defense Directors, Department of Environmental Conservation, Department of Transportation, State Police and other State and local need-to-know persons. The local self-help flood forecast and warnings program with about 25 counties in the State of New York would be curtailed or eliminated.

Reduction of Albany to WSO status will deteriorate this office's ability to issue hazardous meterological and hydrologic warnings, both short fused and long term. The reduction in personnel will impede the ability of the Albany Weather Office to disseminate warnings and information to the mass media, public officials and the general public. The Albany office is of particular importance because of its accessibility to key New York State officials for interpretation, advice, information and support on special weather and hydrologic problems. The scope of NWS reductions preclude maintaining forecasts and warnings at the present quality and level.

The Bureau of Forest Protection and Fire Management relies on the National Weather Service to provide fire weather forecasts. These forecasts are the basis for dispatching the forest fire detection aircraft and for determining the number of Forest Rangers on duty during weekends and holidays. Elimination of these forecast services would reduce our planning capability and would result in greater fire losses.

While the National Weather Service's priority is to issue forecasts, watches and warnings to protect the public it also gives advice and is an important link in transferring information to the public and private concerns. By this process the Weather Service can work closely with other Federal, State and local agencies to provide important services to the public sector.

In the Division of Air Resources the NWS provides support to the following programs:

a.) consultation and interpretation of meterological conditions in cases of an air stagnation episode.

b.) Support for disaster preparedness activities;

1. Nuclear power plant activities
2. Toxic spills or accidents

The proposed cutbacks would severely limit staff capability to consult with the Weather Service on timely emergency issues involving items a and b. Staff reduction would mean that the NWS would only be able to produce the bare minimum of products and their effectiveness in other just as important decision making situations as a and b would be impaired. The downgrading of the Albany office to a WSO would put pressure on the other offices in New York State to pick up slack, but if other stations are also to receive cuts the system as a whole will be under a great strain. The important issue is that if these proposed cutbacks materialize country wide, the implications could be disastrous to public health and welfare.

The Division of Air Resources meteorologists also provide support for other Department programs in the Division of Water and Winter Recreation and Emergency Operations. Much of the data, especially hydrological observations are extremely important for timely assessment of potential flooding situations as well as drought assessment.

The Weather Service has been instrumental in providing timely data for our use in drought evaluation and consequently our recommendations to the Division of Water.

The Department of Environmental Conservation strongly opposes the elimination of the position of Eastern Regional Hydrologist. It is essential that a high level hydrologist be located within the northeast. The Department maintains an active liaison with the Eastern Region Hydrologist who has been instrumental in attempting to improve accuracy and timeliness of flood forecasts. The Department of Environmental Conservation is responsible for the operation of thirty five major flood protection projects throughout the state. Because New York contains significant portions of the headwaters of major rivers, these rivers frequently reach damaging levels within a few hours of the beginning of heavy precipitation. Early forecasts and prompt updates are critical to the protection of life and property. The regional hydrologist has direct knowledge of the problems of New York and a strong desire to improve Weather Service products. Past experience in dealing with Federal agencies located outside of New York State has convinced staff of this Department that our needs are best met by agencies maintaining a high level of expertise within the state. Retention of the regional hydrologist is critical to the needs of the State.

TESTIMONY OF

ARTHUR J. ROCQUE, JR.
CHAIRMAN, COASTAL STATES ORGANIZATION

Mr. Chairman and Members of the Committee, my name is Arthur J. Rocque, Jr., Director of Planning for the Connecticut Department of Environmental Protection and Chairman of the Coastal States Organization (CSO). On behalf of the CSO, a representative association of the nation's 35 coastal state governors, I appreciate the opportunity to present our views on fiscal year 1984 appropriations for state grants authorized under the Coastal Zone Management Act (CZMA).

It comes as no surprise that the Administration, for the third straight year, is requesting a complete elimination of funds for state grant programs authorized under the CZMA. Fortunately, Members of this Committee and the Congress have prevailed more than once in saving the 29 federally-approved state coastal management programs from the Administration's budget ax. For state coastal management programs to remain operational through fiscal year 1984 and without further staff reductions, which have totaled 23 percent over recent years, the CSO strongly recommends an appropriation of $20 million for grants to states under Section 306 of the CZMA. We also recommend that proceeds from Coastal Energy Impact Fund loan repayments, estimated at $8.9 million for FY84, be transferred to the coastal zone management (CZM) account so that states can plan, manage and mitigate the impacts of unprecedented levels of offshore oil and gas operations and leasing on coastal areas. The transferred CEIF loan proceeds would also enable states, such as Virginia, to continue to make progress toward full participation in the federal CZM program.

Our funding request has wide bi-partisan support in the Senate Commerce, Science and Transportation Committee, whose collective statements and findings are set forth in the "Views and Estimates Report" submitted to the Senate Budget Committee. Our funding request reflects the findings of a recent CSO member survey, which assesses federal funding needs and program impacts associated with the proposed termination of state coastal management grants. With 24 coastal states and four territories responding to the CSO survey, the minimum amount of federal grants-in-aid needed to maintain current state coastal management activities would be $18.07 million.

CSO believes that this funding request is consistent with action taken by the committee last year in transferring $7.17 million in CEIF loan proceeds to the CZM account. Members of this body wisely foresaw the need to retain funds for CZM programs in states that were sure to face critical funding shortages this year and to provide start-up grants for the States of New York and New Hampshire.

We understand and fully appreciate the current climate of federal fiscal restraint. According to recent figures released by the National Governors' Association and the National Conference of State Legislatures, the project 1983 budget balances of coastal states will show a net deficit of $4.675 billion. We have, therefore, limited our fiscal year 1984 funding request to maintenance grants under Section 306 and Section 308 coastal energy impact assistance. This is despite the fact that other important, congressionally-authorized CZMA programs have never been funded. Those unfunded programs include Section 306A grants for the redevelopment of urban waterfronts and ports, Section 309 grants for interstate coordination, and Section 315 grants for the preservation of islands and wetlands.

There are four major reasons why we believe FY84 appropriations are critical for state coastal management programs.

First, most coastal states are financially unable, despite their willingness, to assume the full responsibility of acting as sole stewards of this nation's ocean and coastal resources. The CSO budget survey indicated that all but five states and three territories will exhaust their federal coastal management grants before the end of FY84. At least six, and as many as sixteen, coastal states and territories will be forced to completely shut down their federally-approved coastal management programs if an FY84 appropriation is not secured. All will be forced to substantially reduce their CZM efforts. Estimates as to possible state funding support replacing federal grants-in-aid are, in general, not encouraging given the nearly $5 billion collective coastal state budget deficit for this year.

Secondly, the Administration's revamped and greatly accelerated 5-year OCS oil and gas leasing program is now in place, straining state capabilities to maintain their statutorily guaranteed role in the nation's OCS program. The ability of affected states to anticipate, prepare for and lessen the impacts of federally-initiated development will be sorely tested for years to come. Technical staff needed by states to meet this demand are supported primarily be federal CZM funds. Only five states indicated no significant change would occur in program activities if FY84 appropriations were unavailable. In all other states, however, staff layoffs would continue and ultimately lead to delays in processing time for coastal development permits, program reductions in permit monitoring and enforcement, and lengthly delays in "CZMA federal consistence" reviews.

Thirdly, other recent federal administrative actions have placed additional and unforeseen responsibilities on coastal states and their CZM programs. The Department of the Interior, for example, which is charged by Congress to implement the recently enacted Coastal Barrier Resources Act, has called upon the coastal states, through their coastal management programs, to help inventory, monitor and develop long-term, shared management options of such resources. This call to the states comes at a time when the Department of the Interior has refused a Senate offer for an appropriation to implement the provisions of the Act and as the Administration is recommending elimination of CZM funding.

Finally, the press of "normal" coastal business continues. In the face of ever-present shoreline development, coastal population growth, unforeseen natural hazards, harbor-port expansion and activity, wetland conversion, recreation and tourism, fisheries utilization, and energy facility siting, states are being asked to continue their role as the nation's stewards in the proper coordination and management of these often competing interests. This is a role the states readily accept but cannot maintain without at least a minimal level of federal funding support.

In its budget analysis, the Administration has attempted to portray federal funding for state coastal management as "seed" money that is no longer needed or appropriate. It contends that the federal-state coastal management partnership embodied in law has been successful and is now complete, that the coastal management mechanisms are fully and equally implemented by a vast majority of coastal states, and that federal funding can be withdrawn without undue harm to the alliance. We strongly disagree and take issue with these views. Our recent budget survey shows it is simply not true.

The promise of federal funding support was, and is, a major incentive to encourage states to enter and to remain in the business of coastal management. The CZMA reauthorization is proof of congressional intent to fund state coastal management activities through fiscal year 1985. Based on this assurance, progress in developing the partnership continued. Presently, 28 coastal states and territories have obtained federal approval for their coastal management programs, beginning with the State of Washington in 1976 and, most recently, with the States of New Hampshire and New York. In fact, 8 states and 2 territories have obtained federal approval just within the last two and one half years. Moreover, the State of Virginia has recently taken important steps toward program approval.

Thus, we believe that the coastal management partnership is still dynamic, with state exhibiting varying levels of experience in program approval and implementation, and each with differing responsibilities for significant program improvements mandated by the CZMA in the national interest. As a result of the federal support coastal states and territories have received thus far, a solid record of achievement has been compiled. Despite that record of success, much work remains to be done.

On the other hand, termination of federal coastal management grant funding to states is a false economy. It must, by necessity, result in program reductions that would encourage the unwise, imbalanced, irresponsible use of coastal resources. In the case of OCS oil and gas leasing, exploration and development, there would be no savings from the termination of grants to states for coastal management. To the contrary, loss of state technical staff and resulting process delays for various statutorily required coastal reviews and permits, particularly those pertaining to OCS exploration and development plans, would clearly cost the Federal Treasury more in lost revenues than could be saved in refusing coastal management grants to states. In fact, as technical staff are laid off in state CZM programs, negotiation over lease and permit conditions become less likely and litigation becomes more likely in the face of disagreement.

In conclusion, the Coastal States Organization strongly urges that the Committee grant funds to states, as authorized under the CZMA, and at the $28.9 million level recommended by the Senate Commerce, Science and Transportation Committee. We also urge that the state CZM account remain a separate NOAA budget item and that it not be absorbed into the budget structure of the operations, research and facilities account as proposed by the Administration. We question the advisability of consolidating CZM funding, if appropriated, within a general program account. To do so would hamper efforts to monitor the allocation of such funding by an agency whose recent primary mission appears to be to phase out federal support for state coastal management activities.

The Senate Commerce Committee just this week voted overwhelmingly in favor of Outer Continental Shelf (OCS) revenue sharing legislation, S. 800, to fund state coastal management and related programs. Similar actions have been taken by the House of Representatives to provide an alternative funding source for these vital state programs. Prospects for progress on the legislation seem promising. If, however, OCS revenue sharing legislation were to fail congressional passage this year, an FY84 coastal management appropriation would be the only alternative to save the nation's CZM programs from certain extinction. Coastal states have shown a willingness to accept their legitimate role as managers of this nation's ocean and coastal resources and to form a strong, viable partnership with the federal government. They must, however, have the continued financial ability to do so. I urge this Committee to approve the recommended appropriation for FY84 state coastal management grants to maintain our partnership.

MAINE MARITIME ACADEMY
CASTINE, MAINE 04421

26 April 1983

To : Senate Committee on Appropriations, Subcommittee on State, Justice, Commerce, the Judiciary and Related Agencies

Mr. Chairman and Members of the Committee:

This statement is submitted on behalf of the Presidents/Superintendents of the State Maritime Colleges/Academies of New York, Massachusetts, Maine, Texas and California. It is submitted in support of the enactment of an amendment to the appropriation bill authorizing funding for various activities of the Maritime Administration of the Department of Transportation. The amendment would provide an appropriation of $3,000,000 for fuel oil assistance to the federally supplied training ships operated by the five state institutions. These federally owned vessels are necessary for the training of merchant marine and naval reserve officers. The Congress, in the Maritime Education and Training Act of 1980 authorized the provision of fuel support to the state academies but did not mandate it. The Congress did authorize an appropriation of $850,000 in 1981, but since that time the academies have not received this support with a consequent drain upon their resources which has resulted in severe financial burden.

The State Maritime Academies have had a close partnership with the federal government, existing for many years. The partnership was formalized in the Maritime Academy Act of 1958, which established levels of support based on a trilateral partnership of the federal government, the states and their students sharing equal proportions of the burden. Unfortunately, due largely to inflation, particularly in the last eight years, the federal share has declined from approximately one third of the cost of education to less than 10% with the states and their students being obliged to assume the difference.

The nearly ten-fold increase in the cost of oil over the past decade has played a principal role in the inflation of budgets. In addition to the large increase in fuel costs, which has become so overburdening, the Maritime Administration has re-categorized numerous items required for the ship upkeep and maintenance as consumables which must be purchased by the academies. Training ships must be operated in order to qualify students for their merchant marine licenses. Requirements for such training are fixed by Coast Guard regulation which mandates seatime at a minimum of six months, and this may be extended to conform with International Maritime Orgnaization rules in future years, when the Senate ratifies this Convention (Standards of Training, Certification and Watchkeeping for Seafarers). The additional sea time required for deck cadets will necessitate some increase in training ship operation and some increase in small boat exercises (equivalency sea experience) all of which will substantially increase fuel and personnel costs.

The State Academies ask the Senate Appropriations Committee for the sum of $3,000,000 to support the operation of the training ships. In justification of this sum, the academies submit that despite major cutbacks in operating speed, maneuverability and maximum use of port calls and anchorages in recent years, their costs for fuel support of their ships have been as follows:

	FY 1983
New York	$ 495,000
Massachusetts	465,000
Maine	462,000
Texas	350,000
California	400,000
Total	$2,172,000

Under proper training conditions the ships should be kept at sea for longer periods of time. They would be operated at realistic speeds and be required to perform many more maneuvers to give cadets more hands-on experience. The utilization of fuel under these conditions would require approximately one third more than is currently being consumed. Although the delivered price of fuel has declined somewhat in the past few months, the academies have no assurance such a decline is permanent and they must assume that costs in any case will be no lower than at present. Therefore, they believe that $3,000,000 represents a reasonable estimate of the cost of fuel for their ship operations.

Ship operations represent a large portion of academy budgets. Thus for instance in Maine in FY 1983 of a total budget of somewhat more than $8,000,000, operations of the training ship absorbed $1,250,000 or about 16%. Of the total budget, the state appropriated $2.7 million and students paid the largest share of the balance. The federal government contributes directly only $100,000 in program support funds. The balance of present federal appropriations is divided between subsistence support to students at the rate of $100 per month for about 80% of our students, and major repairs to the ship at shipyards, which latter costs are outside of academy operating budgets. Similar budgetary situations are to be found in each of the five state academies.

With the allocation of fuel support to the several academies as they justify such expenditures, the federal government would go a long way toward restoring the partnership which we believe is the best and most economically beneficial way in which our academies can continue to play their important role in supplying officers for the Merchant Marine and the U. S. Naval Reserve.

E A Rodgers

E. A. RODGERS
RADM, USMS
SUPERINTENDENT

STATEMENT OF THE
NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS

Mr. Chairman and Distinguished Members of the Subcommittee:

I. Introduction

My name is Marvin R. Weatherly and I am a Commissioner with the Alaska Public Utilities Commission, as well as one of the State representatives on the Federal-State Joint Board which was established in 1980 to oversee changes in our Nation's telecommunications regulatory framework. I am presenting this statement to the Subcommittee on behalf of the National Association of Regulatory Utility Commissioners, commonly referred to as the "NARUC". Accompanying me are Paul Rodgers, NARUC Administrative Director and General Counsel; Rita A. Barmann, NARUC Director of Congressional Relations; and Linda L. Kent, NARUC Assistant Director of Congressional Relations.

The NARUC is a quasi-governmental, nonprofit organization founded in 1889. Within our membership are the governmental agencies of the fifty States, the District of Columbia, Puerto Rico and the Virgin Islands which are engaged in the regulation of utilities and carriers. Our chief objective is to serve the consumer interest by seeking to improve the quality and effectiveness of government regulation in America.

The Association appreciates this opportunity to appear before the Subcommittee to urge that funds be appropriated to defray travel expenses of the State members of the FCC's Federal-State

Joint Board and their supporting staff for the 1984 Fiscal Year.

II. Defraying Travel Expenses of the State Members of the Federal-State Joint Board

Since Congress decided last year not to enact legislation on telecommunications competition and deregulation issues, much of what was proposed under S. 898 and H.R. 5158 is being implemented by the FCC in various proceedings and by Judge Harold Greene through his decisions in the AT&T Antitrust Case.

Section 410(c) of the Communications Act of 1934 provides that the FCC shall refer any proceeding regarding the separation of telephone company property between Federal and State jurisdiction, and may refer any other proceeding of joint Federal-State concern, to a Federal-State joint board composed of three FCC commissioners and four State commissioners. Section 410(a) of the Act provides that the joint board members "shall receive such allowances for expenses as the Commission shall provide."[1]

The Congress has consistently recognized the importance of the joint board proceedings. Last year, a provision of S. 898 provided for the establishment of a Federal-State Joint Board to ascertain jurisdictional cost separations for the computation of telephone access charges, and called for the employment of staff support as well as the payment of travel expenses for the four State members. Similarly, the transitional and interexchange Federal-State Joint Boards proposed in H.R. 5158 were authorized to appoint and fix the pay of staff personnel.

Consistent with these legislative initiatives and pursuant to State requests, the existing Federal-State Joint Board (FCC CC Docket No. 80-286) will continue to monitor and recommend needed revisions in jurisdictional cost separations and in the computation of access charges during the transitional period before the implementation of the AT&T divestiture.

Accordingly, we respectfully request that $112,996.00 be added to the FCC appropriation for FY 1984 to defray the travel expenses of the four State members of the Joint Board and the 19 supporting staff members. Attached to my statement, for your information and reference, is a list of these members and a memorandum on the method of calculating the requested amount.[2]

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[1] 47 U.S.C. Sec. 410(a).

The participating State members render a national service when a joint board is convened. State involvement is essential to determining crucial telecommunications issues, since State officials are in the best position to assess the needs of their consumers and to balance any competing interests. In addition, the Federal government benefits in convening joint boards by acquiring the aid of State expertise, conserving the use of Federal officials and strengthening Federal-State cooperation. It is for these reasons that the FCC endorses the allocation of funds for State member expenses.

However, it is inappropriate for a few State commissions with limited travel budgets to bear the travel, food and lodging expenses of the cooperating commissioners when the service these officials and the staff provide is of national benefit.

Section 410(a) provides the necessary authorization for the appropriation, particularly if accompanied by report language that these funds are to be expended for both commissioners and staff. The NARUC respectfully urges the Subcommittee to support the allocation of the necessary funds.

III. Conclusion

At a time when the telecommunications industry is undergoing a radical transformation it is imperative that Federal and State regulatory bodies continue to work together in implementing the impending changes and ensuring a smooth transition without disruption in services. In order to maintain effective State participation in these efforts, we respectfully urge your support for an appropriation to defray the expenses of the State commission and staff members of the Federal-State Joint Board.

Thank you for your attention.

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[2] See Appendixes A and B respectively.

APPENDIX A

State Members
Federal-State Joint Board to Consider Changes in the Separations Manual, Federal Communications Commission
(FCC CC Docket No. 80-286)

Edward P. Larkin, Commissioner
New York Public Service Commission
New York, New York

Edward B. Hipp, Commissioner
North Carolina Utilities Commission
Raleigh, North Carolina

Edward F. Burke, Chairman
Rhode Island Public Utilities Commission
Providence, Rhode Island

Marvin R. Weatherly, Commissioner
Alaska Public Utilities Commission
Anchorage, Alaska

State Members
Staff Committee for the Federal-State Joint Board

Guy E. Twombly
Maine Public Utilities Commission
Augusta, Maine

Charlie Land
Texas Public Utility Commission
Austin, Texas

Robert E. Osborn
Iowa State Commerce Commission
Des Moines, Iowa

Paul Popenoe
California Public Utilities Commission
San Francisco, California

Hugh L. Gerringer
North Carolina Utilities Commission
Raleigh, North Carolina

JoAnn S. Hanson
Minnesota Public Service Department
St. Paul, Minnesota

Ronald Choura
Michigan Public Service Commission
Lansing, Michigan

Gary A. Evenson
Wisconsin Public Service Commission
Madison, Wisconsin

Allen Bausback
New York Public Service Commission
Albany, New York

Richard McMillen
Minnesota Public Service Department
St. Paul, Minnesota

Timothy J. Devlin
Florida Public Service Commission
Tallahassee, Florida

Dell Coleman
Kentucky Public Service Commission
Frankfort, Kentucky

Al Gross
Oregon Public Utility Commissioner
Salem, Oregon

Walter E. Edge, Jr.
Rhode Island Public Utilities Commission
Providence, Rhode Island

Elton Calder
Georgia Public Service Commission
Atlanta, Georgia

Peter Sokolov
Alaska Public Utilities Commission
Anchorage, Alaska

Roy Edwards
Louisiana Public Service Commission
Baton Rouge, Louisiana

Yvette Smiley Smith
Alabama Public Service Commission
Montgomery, Alabama

Kathleen Hesser
Alaska Public Utilities Commission
Anchorage, Alaska

APPENDIX B

Summary of State Member Expenses, Federal-State Joint Board and Its Staff Committee to Consider Changes in the Separations Manual (FCC CC Docket No. 80-286) for 1984 Fiscal Year

The Federal-State Joint Board holds an average of three three-day meetings per year, while its Staff Committee holds an average of eight three-day meetings per year. The average expenses for a member to attend one three-day meeting in Washington, D.C. are as follows:

Meals	$ 85.00
Travel	372.00
Lodging	188.00
Miscellaneous	44.00
Total	$689.00

Cost for four State commissioners to attend three three-day meetings (4 x $689 x 3)	$ 8,268.00
Cost for 19 State staff members to attend eight three-day meetings (19 x $689 x 8)	104,728.00
Total	$112,996.00

NATIONAL IMMIGRATION AND NATURALIZATION SERVICE COUNCIL

STATEMENT

OF

MICHAEL G. HARPOLD

PRESIDENT

Mr. Chairman and members of the Sub-committee, we are pleased to appear again this year and present testimony regarding the FY 1984 Authorization and Budget Request for the Immigration and Naturalization Service.

Again last year, as with each of the past five years, approximately 1,000,000 illegal aliens were apprehended in the United States while an additional half-million were intercepted at ports of entry. Again this year, as with last, we are hopeful of new, more effective immigration legislation. Again this year, as with the year previous, the Administration has come forward with a proposed budget which, absent uncontrollable increases, would, in the amount of dollars and positions (both in total and in its major provisions) be exactly the same as last year's budget.

The Administration promises to come forward with a new request upon the enactment of new legislation. We disagree with the Administration and with that philosophy for several reasons. First, the Administration is failing to move forward to improve its conventional enforcement efforts at the border and at the ports of entry. The success of any new legislation hinges on improved border enforcement and we see no reason, political or operational, why this is not being done already.

Equally important is the Administration's own credibility. That credibility, or perceived lack of it, is a major factor in the debate over the Simpson-Mazzoli Bill. The administration's intent and commitment is questioned on almost every major point: how many H-2 workers? will employer sanctions be enforced? what does legalization really mean? Many of the reservations expressed by the numerous groups involved in the debate, including our own, could be resolved if the Administration were not keeping its cards so close to its chest. The Administration could have gained a lot of credibility in a lot of minds by making a clear commitment in this budget to improved border enforcement. Regrettably, it did not.

Finally, although the evidence of improved management within the I&NS is clearly there, the budget request reflects in several significant areas a doting on managerial improvements at the expense of operational effectiveness. A prime example is in the Inspections Program which we will discuss in some detail. While we realize that the I&NS had to improve its credibility with the Department of Justice, the Office of Management and Budget and the Congress, we do not feel that the Agency in a fit of self-improvement should lose sight of the big picture. The FY '84 Budget Request is a status quo budget. It lacks operational mandates and directions that the Agency, its managers and the people in it need right now.

THE INSPECTIONS PROGRAM

Last year 41% of the one million illegal aliens apprehended in the United States entered through the Ports of Entry. That is, they were inspected by an officer of the I&NS, the Customs Service or the Agriculture Department with whom we share responsibilities at most ports of entry. Many of the aliens so admitted used fraudulent or counterfeit documents. Others made false claims to U.S. Citizenship. Still others were in possession of a valid visa but violated the terms of their admission after entry. During 1982, 533,063 inadmissable aliens were intercepted at ports of entry. While impressive, that figure represents an 18% decrease from 1981. The I&NS agrees that the decrease is in greatest measure due to the loss of immigration inspector positions.

Despite the fact that immigration inspections at the port of entry is a vital element in immigration enforcement efforts, I&NS management has taken a confused and often mis-directed approach to the problem. In 1982 the I&NS proposed and implemented a 13% reduction in the authorized inspection workforce and a 45% cut in overtime funding. As a consequence, a large proportion of inspections' assignments were pushed over onto the Customs Service or performed by untrained and undergraded part time or temporary employees.

Having created the situation, the I&NS in this year's budget request admits the result:

> "The ability to detect inadmissible aliens was most severely affected by the loss of immigration inspector positions. With fewer inspectors available, each inspector was required to inspect a greater number of applicants for admission. When an inspector is required to examine an inordinate number of applicants his efficiency in detecting inadmissible aliens is diminished."

Despite this admission, the I&NS asks for no increase in its inspections workforce except for temporary and part time positions to staff a new port of entry at Otay Mesa, California.

Some further examples of the confused view management has taken towards the inspections program will perhaps underline the need for a strong statement from the Congress to give the program direction. At the urging of Congress and the Administration the I&NS cooperated with the Customs Service and APHIS to conduct a test on consolidated single agency inspection at international airports. The tests were conducted at Miami and Los Angeles. The results indicate that modest reductions were made in passenger waiting time. There were no demonstrated savings in resources and in fact the Customs Service used more inspectors than before. Enforcement suffered. Identification of inadmissible aliens decreased 15½% in Miami and 33% in Los Angeles while nationwide the trend was the opposite, a 6% increase. Yet, apparently based upon the success in reducing passenger waiting time the I&NS now proposes to introduce the same configuration to other airports across the United States.

Conflicting goals are also evident in the implementation this year of a standard six months admission policy for visitors for business and pleasure. The I&NS says that by granting every visitor a uniform six month period of admission savings are made in time during the inspection process and further savings are made because the I&NS does not have to process subsequent applications for extension of stay. Both of these assertions are true. However, these savings are made at the expense of enforcement. Since the inspector no longer inquires about the length of the proposed stay or the reason, mala fide applicants are less likely to be detected. Since most aliens use a hotel as their initial address in the United States we no longer have the benefit of receiving a better address upon application for an extension of stay. We lose our chance to apprehend visa abusers during their first six months of residence unless we actually find them on the employment rolls at a worksite. Finally, since we have given them a six month lead and have no good address, the six month admission program successfully negates any enforcement advantage we might have achieved in the new non-immigrant control and I-94 program which is just now being implemented.

Management's view of the inspections program is best illustrated by examining the 1983 Program Priorities. Of the 42 priorities listed only one touched on improved enforcement at the port of entry and then only obliquely:

> "8. Reduce and control the cost of the inspections program while improving its overall effectiveness, emphasizing:
>
> -1931 Overtime Act reductions
> -increased use of other than full-time permanent personnel
> -reduction of presence at low-volume, low risk ports"

This and other program priorities were incorporated into the work performance plan of I&NS regional and district managers and constitutes the standard upon which each is judged for promotion or retention. The system represents proper management but consider the plight of many small towns along our northern border who are the unwitting victims of the system. The performance work plan says that managers are to reduce the cost of the inspection program by a "reduction of presence at low volume, low risk ports."

Beyond the loss of immigration inspectors and their families to the economy and social strudture of these small communities, the closing of a POE has a much greater impact on the community. Many of these small border towns need Canadian customers to survive. Many Canadians would not have access to commercial shopping areas if the port were closed. In many areas the only hospital or clinic is located on one side of the border or the other but not on both. For example, in Sarles, Hannah and Neche, North Dakota residents on the U.S. side of the border use the facilities in Canada. On the other hand, people residing on the Canadian side north of Roseau or Pine Creek, Minnesota travel the eight to twenty-two miles to the hospital in Roseau instead of the nearest Canadian facility which is seventy miles away.

Law enforcement in the small communities of the border area has always relied on the cooperation and expertise of the inspectors who man the POE's. Numerous fugitives and rejects from one country or another are arrested at the border each year and with less staffing and fewer POE's the chance of apprehension will surely decrease. The residents of the northern border area are not anxious to encounter the crime and drugs problems that have occurred along the Mexican border and in South Florida as a result of overwhelmed federal enforcement efforts.

The work performance plan in the hands of regional and district managers takes none of these factors into consideration. The I&NS 1983 Program Priorities mandates only that managers "reduce and control the costs of the Inspections program". The Administration meanwhile refuses to request or justify any budget increase.

We urge that the Congress make a strong clear statement to the I&NS emphasizing the importance of the Inspection program. That statement should include:

-Authorize and appropriate $12 million and 256 positions for the inspections program which the I&NS planned for but did not request. The agency should be instructed to document and request the additional resources it really needs.

- Require that at a minimum the I&NS maintain its current staffing levels at all U.S. Ports of Entry.
- Require the I&NS to stop personnel abuses and train its part-time and temporary workforce to meet the same qualifications and standards as its full-time workforce.
- Repeal the overtime cap in that the $20,000 overtime cap has not encouraged the I&NS to hire the additional inspectors it needs but instead has been used oppresively against the employees.
- Rescind the six month uniform admissions policy for visitors for business and pleasure.
- Require that all I&NS management work performance plans and priorities be re-written to emphasize the vital role the inspections program plays in overall immigration enforcement efforts. Require that managerial efficiency be measured against enforcement results.

While we have emphasized the Inspections Program this year as a major area of concern we would like to call the Sub-committee's attention to some problems in other areas as well.

RECORDS

Much is being done to automate and improve the I&NS records system. We are concerned, however, when we see defects in already implemented programs which could have been prevented had field employees been involved in the development of these new programs. Unfortunately, we most often learn about new programs after a decision has been made to contract it out. We are dismayed that in a number of instances, particularly in the awarding of a five year contract for the Non-immigrant Information System, that the use of existing I&NS employees was not considered.

The FY '84 Budget Request contains a $10 million item to establish a National Records Processing Center. The Center would house all existing Alien Files within a single installation and field office records needs would be handled from that single facility.

This move will have sweeping impact on I&NS operations and that impact can as easily be bad as good. At present, A-files are housed at 46 I&NS district and sub-district offices. The present concept calls for the housing of the file at the I&NS office closest to the alien's residence. In the vast majority of cases this facilitates services in that the requisite file is immediately available to the office where it is needed.

We do not know that housing all existing A-files in a single location will improve the records operation. We also do not know if electronic transmission of the data in a file will lessen the need to transmit the whole file. The Union has not been aware of the twelve month study alluded to as justification of this program. The Union has learned only by way of this budget request that theI&NS proposes to terminate 270 existing I&NS employees and transfer 47 others. We are dismayed to learn that the I&NS has already gone so far as to request that the General Services Administration locate suitable space in the midwest.

We request that the Sub-committee put a hold on this project until such time as the Union, the employees, and the Congress have been made completely aware of what is going on and the benefits of such a program have been reviewed.

OFFICE OF PROFESSIONAL RESPONSIBILITY

The Office of Professional Responsibility was greatly expanded in 1980 because of a wrongful perception that I&NS employees were brutal and corrupt. Time has proven that that perception was terribly wrong. The alleged corruption simply did not materialize despite the resources and the personnel that were poured into the investigative efforts.

The statistics which are used this year as justification for continuing the program are misleading. For instance the phrase "Significant disposition - 10" does not mean that there were 10 criminal convictions. We can call to mind only one. In any event, the employees of the I&NS deserve vindication. At a minimum there is no justification for continuing this program at its present level of 47 employees.

SUMMATION

The Administration proposal this year is simply not enough. The Administration promises to come forward with a supplemental at the time of enactment of legislation, particularly in the areas of Examinations, Investigations, and Detention and Deportation. This, however, ignores the pressing need for action now, particularly in "beefing up" our border enforcement. All should be alarmed by the situation in Central America and its implications for the United States. Of equal concern is the economic situation in Mexico which is sending record waves of Mexicans to the United States, most illegally, Are we to mark time until this nation is saddled with a massive population in the Southwest and our cities of such proportion that we can not assimilate it?

We not only should be moving, but we can move on our border enforcement problems now. That can start with a clear mandate to the Administration to significantly strengthen its border enforcement commitment, including both inspections and the Border Patrol between the Ports of Entry.

Thank you.

Statement of the Air Transport Association of America

The Air Transport Association of America, which represents the scheduled airlines of the United States, has among its members 17 U.S. flag airlines that provide regularly scheduled air service between the United States and over 70 foreign countries.

Air transportation is the principal mode of travel to and from the United States for international travelers,and since Immigration inspection formalities directly affect international air travel, and are mandatory at U.S. airports of entry, our member airlines are deeply interested in the impact of the budget on immigration staffing and inspection procedures.

We are concerned about inadequate immigration inspector staffing at airports of entry because it reflects unfavorably on the United States, inconveniences air travelers, and adds unnecessarily to the costs of airline operations. Current levels of U.S. immigration inspector staffing at U.S. airports of entry, and at preclearance airports in Canada, the Bahamas, and Bermuda, impact adversely on international air service and on travel and tourism. We urge that immigration inspector resources and work loads be brought into better balance through budget appropriations and policy direction.

The FY 1984 Immigration Service budget request provides for no increase in immigration inspector staffing at airports of entry. However, according to conservative estimates based on airline industry analysis of inspector work load at these airports, and based on consultation with airport authorities, we conclude that 334 additional immigration inspectors are needed nationwide now. U.S. immigration inspector staffing has fallen behind the growth rate of international air travel. There has been,and continues to be, severe congestion in processing international travelers through immigration formalities at most U.S. airports of entry. Delays, at times approaching 2 to 3 hours per flight, have occurred at the preclearance airports of Montreal and Toronto and the Miami, Honolulu, New York (Kennedy) and Seattle airports. Without changes in staffing levels or procedures, the situation will be exacerbated during the peak travel season this year and next, extending from April through October.

In the absence of adequate inspector staffing at gateway airports, opportunities do exist for inspection simplification by administrative action. These opportunities include:

1. extension of the accelerated specialized inspection system procedure now operational at the Los Angeles airport to other U.S. airports of entry.
2. extension of the red/green dual channel inspection system now operational at Chicago, Kennedy, Miami, and Houston airports to other airports around the country;
3. extension of preclearance -- the inspection of passengers prior to departure to a foreign country to more locations abroad such as at Mexico City;
4. introduction of a machine readable U.S. passport system at airports of entry;
5. consolidation of the several inspection rpocedures required for the entry of travelers into this country.

With respect to the last item, it is worthwhile to note that at a joint government/airline Facilitation Conference last November, ATA was requested to develop an analysis on how further inspection agency efficiencies could be realized. The ATA analysis, now completed, reviews the federal inspection system, current regulatory responsibilities, previous reports of studies on inspection agency management, and explores possible interim relief measures. The ATA analysis also suggests a number of options and alternatives with respect to federal inspection management at airports, and notes how some of these options and alternatives might be accomplished.

As noted, Immigration inspector staffing at U.S. international and preclearance airports is substantially below the level needed today for the proscribed air commerce inspection process. Unreasonable delays and public inconvenience have been the consequence. Unless steps are taken to assure adequate Immigration inspector resources, these problems will worsen severely. While simplification and modernization measures such as those suggested in the ATA analysis may reduce the growth of resource needs, they will not significantly reduce inspector staffing requirements in the absence of a major change in basic Immigration policy.

The subcommittee is urged to provide the staffing necessary to permit the efficient processing of international air commerce, and to direct early consideration of appropriate simplification measures, including those suggested by the ATA analysis.

STATEMENT FOR THE RECORD OF HEARINGS

IMMIGRATION AND NATURALIZATION SERVICES

FY 84 BUDGET

The Otay Mesa border station at the San Diego, California / Tijuana, Mexico border is scheduled to open in March, 1984. It will serve as the main commercial truck inspection station for San Diego, and provide an alternative to the San Ysidro crossing for passenger vehicles, relieving congestion at the San Ysidro station and the currently inadequate Virginia Street commercial crossing.

The existing 24-gate border crossing at San Ysidro is said to be the busiest single port of entry in the United States. Currently, over 40 million persons move northbound through its gates each year. By 1994, 65 to 70 million are expected to cross annually from Tijuana to San Diego.

Congestion at the San Ysidro Port is a well-known problem. At peak periods, lengthy waits may occur for those wishing to cross, while gates are unused due to lack of staff.

Commerce and tourism are of increasing economic importance on both sides of the border. The smooth flow of goods and people serves to encourage this interchange and required provision in the federal budget for adequate staffing at the border crossing gates. Delays in crossing, on the other hand, result in frustration and, ultimately, deter commerce.

The San Diego City Council and the San Diego Board of Supervisors, as the result of recommendations made in 1981-82 by the San Diego Border Task Force on adequate staffing for the Otay Mesa and San Ysidro Ports of Entry, have established legislative policy for the Otay Mesa and San Ysidro Ports of Entry which supports levels of staffing for Customs, Immigration and Naturalization Service, and other applicable federal agencies, which are adequate to assure that persons waiting to cross the border ordinarily have no more than ten minutes to wait, within the constraints of physical capacity of the facility; and to permit issuing border crossing cards to eligible alien border residents in order to encourage and expedite their shopping in and visiting the United States.

Mr. Chairman, the City of San Diego respectfully urges your Committee's thoughtful consideration of FY '84 budget requests from Customs, and Immigration and Naturalization Service for staffing at these ports of entry. Your endorsement of the policy deemed by San Diego elected officials to be in the best economic interests of the United States and Mexico will be welcomed and appreciated by commercial and visitor interests on both sides of the border. Thank you for the opportunity to insert this statement in the record of your Committee's hearing on the Immigration and Naturalization Service FY '84 budget request.

STATEMENTS OF BOTH A) THE SOCIETY OF INTERNATIONAL BROADCASTERS, 145 EAST 49th STREET, NEW YORK, N.Y. 10017, AND B) GENERAL C. RODNEY SMITH (RETIRED), FORMER HEAD OF RADIO FREE EUROPE, CONCERNING THE NEED FOR ENHANCING THE PENSIONS OF THE EARLY RADIO FREE EUROPE/RADIO LIBERTY RETIREES, WHO RETIRED PRIOR TO JUNE 30, 1976, AND GRANTING BENEFITS TO WIDOWS OF EMPLOYEES, WHO DIED PRIOR TO JUNE 30, 1976.

The Society of International Broadcasters /SIB/ wishes to take this opportunity to thank this committee for giving our organization a hearing on a most pressing matter concerning a group of Americans who have given loyal and conscientious service in the creation of Radio Free Europe and Radio Liberty. The SIB comprises former members of the Radios, many of when were instrumental in helping organize and giving the original impetus to what has become the effective functioning of two important instruments of American foreign policy - Radio Free Europe and Radio Liberty.

Because of their continuing loyalty to the mission of the Radios, the former staff members of RFE/RL organized the SIB, which seeks to maintain the link of interest shared by those who have been engaged in international broadcasting and to express its members' desire to see an expansion of the free exchange of information between all countries and peoples as described in the Helsinki Agreements.

On behalf of former employees of RFE/RL who retired or left the Radios before 1976, the SIB over the past five years has also sought an upgrading of pensions of pre-1976 retirees to that of the much more advantageous payments given to those staff members enjoying pensions under a post-1976 formula.

We have been assured by the Board of International Broadcastin and the RFE/RL management that such adjustments are unquestion merited, but to this date no such upgrading has taken place. We have been particularly heartened by the support given our cause by the new Chairman of the Board of International Broadcasting. Mr. Frank Shakespeare, who voluntarily expressed his sympathy for the pre-1976 retirees, many of whom are in dire financial straits, during the course of his confirmation hearing before the Senate Foreign Relations Committees Subsequently, Mr. Shakespeare, in a talk before the annual meeting of the SIB in 1982, reaffirmed his commitment to the cause of the pre-1976 retirees noting that "it is a self-evident tragedy. Your cause is just. In any way that we can do so, we on the Board will support it."

As we have noted, the heart of the problem is the disparit between pension payments to pre-1976 retirees compared to the substantially larger payments - ranging up to three times greater, in some cases - granted post-1976 retirees. Those receiving pensions under the pre-1976 formula receive payments from 55 to 550 dol. a month. The post-1976 retirees, on the other hand, receive payments ranging from 300 a month to well over 2,000. It should be noted that, even when the principle of applying an equal pension formula is adopted, it will not result in equal payments for both groups. Those presently employed would still receive considerably higher pensions than pre-1976 retirees because pension payments are based on employees' salaries, which have risen substantially since 1976.

The pre-1976 pension formula contains the following restrictive provisions compared to the formula applying to the post-1976 retirees:

1/ Fifty percent of Social Security payment is deducted f the pensions of pre-1976 retirees. No such deduction is applied in the case of post-1976 retirees.

2/Computation of pre-1976 pensions is based on the last five /highest/ years of salary. Post-1976 pensions are based or the more advantageous last three /highest/ years.

In addition to seeking an equalization of treatment in these two aspects of the pensions program, the SIB feels that it is essential to provide compensatory cost-of-living increase based on sums unpaid to pre- 1976 retirees during the period 1976-1982.

The most difficult situation is that in which widows of former RFE/RL employees are placed. Since some widows receive n pensions, provisions must be made for coverage for those in thi unfortunate condition.

There are some 200 persons in these groups, including pre-1976 retirees, vested terminees and widows.

Fortunately, there now exists a unique opportunity to redress this inequity. Over the past three years, because of the favorable exchange rate of the U.S. dollar vis-a-vis West European currencies, the RFE/RL has returned to the U.S. Treasu sums more then sufficient to fund the upward adjustment of pensions for pre-1976 retirees. This would require an estimated outlay of $6,000,000. /This is a preliminary figure, subject to further discussion between the Society of International Broadcasters and Board of International Broadcasting..

During the first five months of fiscal year 1983 (i.e., through February 28), RFE/RL, Inc. realized a gain of $2,628,000 due to upward fluctuations in foreign currency exchange rates. It is expected that this figure will rise to approximately $3.5 million once the gain for March has been computed, and the current estimate for the entire fiscal year stands at $6 million.

A precedent, moreover, exists for the use of the currency gain by RFE/RL, Inc. instead of its being returned to the U.S. Treasury. Section 303 of S.1193, authorizing appropriations for fiscal years 1982 and 1983 for the Board for International Broadcasting, authorized the use of a portion of the gain realized during fiscal year 1981 through upward fluctuations in foreign currency exchange rates to compensate for losses incurred as a result of the February 21, 1981 bomb explosion at RFE/RL, Inc. Munich headquarters and for additional RFE/RL, Inc. expenses as might be deemed appropriate (Senate Report No. 97-71, pp. 30-31). Under the Supplemental Appropriations and Rescission Act, 1981 (Public Law 97-12), an amount of the currency gain was made available to RFE/RL, Inc. (House Report No. 97-124, p. 26).

The U.S. government has a moral obligation to the pre-1976 retirees whose devotion to their adopted country must not be forgotten. Exiles of East Europe, now American citizens, the brought their unique knowledge of their native lands to serve the cause of freedom and democracy and gave the most productive years of their lives to this task. Their education and experienc could have secured them better paid occupations at American or European universities or other professions, but they were convinced of the high value of joining the staffs of the Radios. To this task, they brought irreplaceable backgrounds and, in cooperation with their American colleagues, in the early fifties established the Radios, which now constitute an essential elemen in America s foreign policy.

In a sense, the much more favorable pension arrangments covering post-1976 retirees has been made possible by excluding the pre-1976 retirees from the increase in benefits available to employees retiring after 1976. A uniform pension plan is a goal that would, belatedly, halp right an injustice. Pre-1976 retirees are doubly disadvantaged. Their salaries were far below the prevailing standards of both government employees and broadcasters and writers employed in the commercial media, and they have been penalized by an inequitable pension scheme.

The SIB urges your committee to act - this year - to authorize the use of the U.S. dollar gain to make it possible for RFE/RL retirees, who have given so unselfishly to our common cause and loyally served the U.S. government, to live out their remaining years in a minimum of comfort. To do less would constitute a blemish on the honor of the government they felt honored to serve.

SOCIETY OF INTERNATIONAL BROADCASTERS

MR. CHAIRMAN, MAY I IDENTIFY OURSELVES. WITH ME ARE MR. STANLEY K. SMIALOWSKI, PRESIDENT OF THE SOCIETY OF INTERNATIONAL BROADCASTERS, THE "SIB", AND MR. VLADIMIR PASCALEFF, WASHINGTON REPRESENTATIVE OF THE SIB AND MEMBER OF ITS EXECUTIVE COMMITTEE. I AM MAJOR GENERAL C. RODNEY SMITH, REGULAR ARMY, RETIRED, HONORARY CHAIRMAN OF THE SIB. I WAS HEAD OF RADIO FREE EUROPE FOR SOME SIX YEARS IN THE 1960's, AND FROM 1975 TO THIS YEAR A CONSULTANT TO THE BOARD FOR INTERNATIONAL BROADCASTING.

THE SIB HAS SUBMITTED A WRITTEN PAPER TO YOUR COMMITTEE, WHICH WITH YOUR PERMISSION I SHALL NOT TAKE UP YOUR TIME IN READING TO YOU. RATHER, I WOULD LIKE TO TAKE A FEW MINUTES TO EMPHASIZE AND UNDERLINE SEVERAL BASIC POINTS OF OUR PROPOSAL, AND THEN ANSWER ANY QUESTIONS YOU MAY HAVE.

WE ARE SEEKING AN IMPROVEMENT, AN UPGRADING, OF THE PITIFULLY LOW AND COMPLETELY INADEQUATE PENSIONS OF THE EMPLOYEES OF RADIO FREE EUROPE AND RADIO LIBERTY WHO WERE RETIRED PRIOR TO JULY 1, 1976. THERE IS A VAST DISPARITY BETWEEN THE PENSIONS OF THIS GROUP COMPARED TO THE MUCH MORE ADVANTAGEOUS PENSION PLAN ACCORDED SUBSEQUENT RETIREES. ASIDE FROM A LOWER SALARY BASE AND DIFFERENT FORMULA, THE DOLLAR-PAID PRE-1976 RETIREES INCUR A 50% SOCIAL SECURITY OFFSET DEDUCTED FROM THEIR ALREADY EXTREMELY LOW PENSIONS. THE MONTHLY CHECK OF MANY OF THESE RETIREES RUNS, UNBELIEVABLY, UNDER $100, AND IS IN THE $200-300 AREA FOR A GREAT MANY. MOST WIDOWS OF PRE-1976 RETIREES RECEIVE NOTHING. THE RESULTING STRAITENED FINANCIAL CIRCUMSTANCES OF THIS GROUP IS TRAGIC. AFTER YEARS OF INFLATION, WITHOUT EQUIVALENT COST OF LIVING INCREASES, THESE FINE PEOPLE HAVE BEEN REDUCED TO LIVING CONDITIONS OFTEN FAR BELOW POVERTY LEVEL.

THESE ARE NOT JUST RUN OF THE MILL INDIVIDUALS. THEY ARE A SELECT GROUP OF HIGHLY TALENTED PEOPLE, LARGELY EXILES FROM THE SOVIET UNION & SOVIET CONTROLLED EAST EUROPEAN COUNTRIES - MEN AND WOMEN OF STATUS IN THE COUNTRIES FROM WHICH THEY FLED TO GAIN FREEDOM FROM COMMUNISM. THEIR BRILLIANT AND DEDICATED WORK AT RADIO FREE EUROPE AND RADIO LIBERTY BECAME THE VERY BACKBONE OF THE DEVELOPMENT OF THESE RADIOS INTO THE HIGHLY EFFECTIVE BROADCASTING STATIONS THEY BECAME. I WORKED WITH THESE PEOPLE. I KNEW THEM FIRST HAND. DEVOTED, LOYAL AND ABLE, THEY SERVED WELL THE INTERESTS OF THE U.S. AND RENDERED A GREAT SERVICE IN COMBATING THE INFLUENCE OF COMMUNISM IN THEIR HOME COUNTRIES. NOW IN THEIR 70s OR OLDER, THEY DESERVE FAR BETTER TREATMENT THAN THE PITIFULLY LOW PENSIONS THEY ARE RECEIVING.

THE PROBLEM HAS BEEN HOW TO FUND AN APPROPRIATE PENSION IMPROVEMENT PROGRAM. AN OPPORTUNITY NOW EXISTS, WITHOUT REQUIRING ANY NEW APPROPRIATION, FOR SUBSTANTIAL AMELIORATION AND AT LEAST PARTIAL REDRESSING OF THE GREAT INJUSTICE SUFFERED BY THESE PROUD MEN AND WOMEN WHO ARE IN SUCH DIRE FINANCIAL STRAITS. IT NOW APPEARS THAT GAINS FROM THE DOLLAR EXCHANGE RATE VS THE DEUTSCHMARK WHICH ARE CURRENTLY ACCUMULATING IN THE FY 1983 RFE-RL APPROPRIATIONS WOULD LARGELY, IF NOT FULLY, FUND THE REDRESSING OF AT LEAST A LARGE PART OF THE MOST ACUTE SHORTFALLS SUFFERED BY THIS DWINDLING GROUP OF PRE-1976 RFE-RL RETIREES. THIS WOULD BE A PROGRAM TO FILL IN GAPS BETWEEN THE PRE-1976 & THE POST-1976 PENSION PLANS, SUCH AS PENSIONS FOR WIDOWS NOW RECEIVING NOTHING, AND ELIMINATING & MAKING UP FOR THE 50% SOCIAL SECURITY OFFSET DEDUCTIONS AND RELATED UNPAID COST OF LIVING INCREASES. PRELIMINARY ESTIMATES PLACE THE COST OF SUCH A RELATIVELY MODEST PROGRAM OF PENSION IMPROVEMENT IN THE NEIGHBORHOOD OF $6 MILLION. THE ACCUMULATED DOLLAR EXCHANGE SAVINGS FOR THE FIRST HALF OF FY 1983 ARE CURRENTLY ESTIMATED TO HAVE ALREADY REACHED ABOUT $3.5 MILLION. THESE FUNDS ARE NOT AVAILABLE FOR USE BY RFE-RL IN THEIR OPERATIONS. THEY COULD BE AUTHORIZED BY THE CONGRESS FOR THE PROPOSED SIB PROGRAM TO UPGRADE PRE-1976 RETIREE PENSIONS, AND THUS GREATLY RELIEVE THE TRAGIC PLIGHT OF THESE PEOPLE.

ACCORDINGLY, THE SIB URGENTLY RECOMMENDS FOR THE CONSIDERATION OF YOUR COMMITTEE AND THE OTHER APPROPRIATE COMMITTEES OF THE CONGRESS THAT:

> WHATEVER SAVINGS MAY ACCRUE IN FY 1983 BIB/RFE-RL APPROPRIATIONS AS A RESULT OF DOLLAR EXCHANGE GAINS BE AUTHORIZED FOR APPLICATION BY RFE-RL IN UPGRADING THE PENSIONS OF PRE-1976 RETIREES, TO THE EXTENT REQUIRED UNDER A PENSION IMPROVEMENT PLAN PROPOSED BY THE SIB AND AS AGREED UPON BY RFE-RL AND APPROVED BY THE BIB. IF THE DOLLAR EXCHANGE GAINS IN FY 1983 ARE NOT SUFFICIENT TO MEET FULLY THIS URGENTLY NEEDED UPGRADING, WHATEVER AMOUNT TURNS OUT TO BE AVAILABLE CAN AND SHOULD BE APPLIED IN INCREMENTAL IMPROVEMENT OF THE MOST FLAGRANT DEFICIENCIES IN THE PRE-1976 PENSIONS, AND ACTION THEN BE CONTINUED IN FY 1984 TO COMPLETE THE AGREED UPON PROGRAM. THE CURRENTLY ESTIMATED $6 MILLION COST I HAVE REFERRED TO IS A ONE-TIME EXPENDITURE TO FINANCE AN ON-GOING FUNDING OF THE INCREASED PENSION PAYMENTS.

THE URGENT NEED FOR PROMPT REMEDIAL ACTION TO RELIEVE THE PLIGHT OF THIS GROUP OF RETIREES HAS BEEN FULLY AND REPEATEDLY ENDORSED BY MR. FRANK SHAKESPEARE, CHAIRMAN OF THE BIB, IN CONGRESSIONAL TESTIMONY; AND IS SUPPORTED BY MR. BEN WATTENBERG, DEPUTY BIB CHAIRMAN, BY THE STAFF AND MANAGEMENT OF RFE-RL/BIB, AND BY THE UNION AND WORKS COUNCIL LEADERSHIP OF THE RADIOS. THE PROPOSED ELIMINATION OF THE MOST EXTREME ELEMENTS OF DISCRIMINATION BETWEEN THE TWO DIFFERENT GROUPS OF RETIREES WOULD LIKEWISE BE WELCOMED BY THE BODY OF RFE-RL EMPLOYEES.

MY ASSOCIATION WITH RADIO FREE EUROPE AND RADIO LIBERTY AND WITH THE EXCEPTIONAL PERSONNEL OF THESE RADIOS GOES BACK 23 YEARS. MY SOLE INTEREST IN URGING ACCEPTANCE OF THIS SIB PROPOSAL IS TO SEE THESE PENSION INEQUITIES REDRESSED FOR THE BENEFIT OF THIS MOST DESERVING GROUP, SO MANY OF WHOM ARE NOW TRAGICALLY UNABLE TO MAINTAIN EVEN THE BAREST LEVEL OF POVERTY LIVING CONDITIONS. NO PERSONAL BENEFIT TO ME IS INVOLVED. I DO NOT RECEIVE ANY RFE-RL RETIREMENT BENEFITS.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1984

THURSDAY, APRIL 21, 1983

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 10 a.m., in room S–146, the Capitol, Hon. Paul Laxalt (chairman) presiding.

Present: Senators Laxalt, Rudman, and Specter.

DEPARTMENT OF STATE

SECRETARY OF STATE

STATEMENT OF HON. GEORGE P. SHULTZ, SECRETARY OF STATE

ACCOMPANIED BY:

- **ROBERT SAYRE, DIRECTOR OF THE OFFICE FOR COMBATING TERRORISM**
- **ROGER B. FELDMAN, COMPTROLLER**
- **THOMAS M. TRACY, ASSISTANT SECRETARY FOR ADMINISTRATION**
- **POWELL MOORE, ASSISTANT SECRETARY FOR CONGRESSIONAL RELATIONS**
- **JOHN HUGHES, ASSISTANT SECRETARY FOR PUBLIC AFFAIRS**
- **B. TERRY HOWE, ASSISTANT TO THE UNDER SECRETARY FOR MANAGEMENT**

BUDGET REQUEST

Senator **LAXALT**. We will be in order.

Today we will review the budget requests of the Department of State. The Department is requesting a total appropriation from this committee of $2,106,963,000 for fiscal year 1984. This represents an increase of $225,344,000 and 308 positions over the final 1983 appropriations figures.

Representing the Department today is the Secretary, Hon. George P. Shultz. Welcome, Mr. Secretary.

Secretary **SHULTZ**. Thank you, Mr. Chairman.

Senator **LAXALT**. The committee is pleased to hear your statement before we move on to questions. So, Mr. Secretary, proceed in any manner you wish.

TRIBUTE TO EMBASSY PERSONNEL IN BEIRUT

Secretary **Shultz**. Thank you, Mr. Chairman. I would like to start, if I could, by paying tribute to the heroic efforts taking place in Beirut in response to the senseless and cowardly bombing of our Embassy there. The people throughout behaved magnificently. The Ambassador dug himself out of the rubble and sorted things out. Of course, we grieve for the people who have been killed and wounded. I think as we look around in our State Department meetings, every person in the room had somebody that he or she had worked with particularly closely who was killed there. So it brings up sharply the fact that work in our Foreign Service carries risks with it, and we see it dramatized from time to time.

I know in our budget we address that problem, but I wanted to first mention the human side of this and record it with you. As you know, the senior career person in the Department, Lawrence Eagleburger, is heading the delegation that is leaving this morning to go to Beirut and bring the bodies back here. Mr. Van Gorkom, Under Secretary for Management, is not able to be here because he is part of that delegation, as are others from the various agencies represented. But we continue our work and our efforts. We do it with a heavy heart.

OFFER OF ASSISTANCE

Senator **Laxalt**. Before you proceed to the rest of your statement, I might say, speaking for the members of the subcommittee, we certainly share your concern and sympathy for all who have been affected.

Do you see any place, Mr. Secretary, in terms of future security where funding or any other type of help may be offered and administered from this committee, or is this something that is pretty much out of hand in terms of security considerations, particularly with many of the street-side embassies we have throughout the world. I know there is concern about going to compound embassy construction. Yet, when you have this type of terrorist activity, it seems to me that those of us who sit on this subcommittee are very mindful of the problem. I am conscious of the fact that money very often isn't the solution. But I might say that we stand ready to help in any manner possible in an attempt to avoid this type of incident in the future.

Secretary **Shultz**. I appreciate that very much, Mr. Chairman. Of course, there are things which we can do that cost money and are part of a program that has been underway to which some of the funds sought in this appropriation will be devoted. There are things that can be done by way of physical arrangements; the examination of what comes in and out of the Embassy, our communications arrangements, and things like that if we are at a capacity to understand what is going on in a society where we are operating. So there are reflections of this concern in the budget request that you have. I guess the tragedy in Beirut highlights the importance of it.

Obviously, as with all matters of security, you cannot create a risk-free situation. But I think our conscience would not be clear if we don't do the best we can. Where there is something that we can do for our people overseas, we ought to do it.

CAUSE OF EMBASSY BOMBING

Senator **Laxalt**. For purposes of the record here, without spending too much more time on it, has it been determined how this occurred, how our security was breached to the point that this type of thing could happen?

Secretary **Shultz**. Well, it was just a vehicle driven and parked which blew up, so it is a very difficult thing to cope with. It was done at the noon hour in the proximity of the cafeteria, so it was done with a human malice, not directed at any particular individual, but just directed against human beings.

Senator **Laxalt**. Was the vehicle simply on the street?

Secretary **Shultz**. Parked on the street, I think, yes.

Senator **Laxalt**. How long had it been there? Has that been determined?

Secretary **Shultz**. It was just driven up.

Senator **Laxalt**. Just driven up and abandoned?

Secretary **Shultz**. I think so.

Senator **Laxalt**. Did it just have a time detonator on it of some kind?

Secretary **Shultz**. Yes, sir.

CONTINUED PURSUIT OF U.S. PEACE EFFORTS IN THE MIDDLE EAST

Senator **Rudman**. Mr. Chairman, before we leave that subject, I want to say, certain isolated comments to the contrary notwithstanding, I find amongst our colleagues no sympathy whatsoever for the idea that because of this incident that in any way this should detract from the resoluteness of the administration's policy both toward the problems in Lebanon and the problems in the Middle East. To react in that way would be to show an attitude on the part of the United States that would not be in keeping with our traditions or our policies.

Secretary **Shultz**. I appreciate that statement very much. It means a great deal to us for you to say that it reflects your views and the views that you have heard expressed among your colleagues. Certainly that is the President's view and my view. He has stated in his public comment that it is our intention to continue to pursue fully and aggressively the efforts to bring peace in the area. There is a sense in which something like this shows how difficult and how important these issues are.

Senator **Laxalt**. Very well, Mr. Secretary.

GENERAL STATEMENT

Secretary **Shultz**. I would like to read the statement that I have about the budget as such.

I do appreciate, Mr. Chairman, the opportunity to discuss our appropriations request for fiscal year 1984. I met a few weeks ago with your counterparts on the House Appropriations Subcommittee. I told them that of all my appearances before Congress, none is more important than discussions of the Department's budget.

I don't claim to have mastered it all. I have some people here who know about the nooks and crannies. But I would say that I consider the aspect of my job of trying to manage this Department and contribute what I can not only to the immediate management, but to the systems of management, to be something of great importance. It is for this reason that I was very pleased that we were able to attract such an experienced, top executive as Jerry Van Gorkom to be the Under Secretary for Management.

Mr. Chairman, I believe I know as well as anyone the competition for our Nation's resources. I have been Director of the Office of Management and Budget at one time and have held other posts. I also understand the inevitable tradeoffs between our domestic and international priorities that are part of the process.

I firmly believe, however, that just as we cannot compromise on funding vital to America's defense, we cannot compromise on the funding necessary to assure the success of our diplomatic efforts. Indeed, to the extent we succeed diplomatically in assuring our own security and well-being and that of our friends and allies, our military strength need never be tested.

FOREIGN POLICY GOALS

Our Nation's foreign policy agenda, Mr. Chairman, is a very ambitious one. Two broad goals dominate that agenda, goals which are at once interdependent and mutually reinforcing.

The first goal is our commitment to a more peaceful, secure world, where countries are free to pursue peaceful change and to realize their political and economic aspirations safe from threats or intimidation. To address this goal, President Reagan is moving decisively to restore our military strength, to negotiate on disarmament and arms control, and to act imaginatively to promote democracy around the world. We are helping to make peace a reality in regions of the world which have known only anguish and strife for generations.

The second goal is to restore order and stability to the international economic system by recognizing that our own domestic and foreign economic policies must interact effectively to achieve sustainable noninflationary growth.

TOTAL RESOURCES NEEDED IN FISCAL YEAR 1984

Mr. Chairman, I would now like to discuss the resources needed by the Department of State to advance U.S. interests overseas. I am requesting appropriations for $2.1 billion in 1984 which represents an increase of $225 million over 1983 estimates.

CHANGE IN TIMING OF ASSESSMENTS TO CERTAIN INTERNATIONAL ORGANIZATIONS

A major component of this increase ($85 million) results from completing a previously approved change in the timing of our payment of assessed contributions to the major international organizations.

Senator LAXALT. That means essentially, Mr. Secretary, if I understand, we are now on a current basis. Is that right? We will be by making this next annual payment.

Secretary SHULTZ. Yes, sir, but we delayed the payment and put it on a more current basis. There was some controversy about that. In banking terms, it is a question of who gets the float. Having delayed payment, now we have to pick it up. So you have what seems to be a one-time increment, but it is really part of a program that actually saves us a little money.

This, therefore, does not constitute an increase in the budgets of these organizations. If the budget request is not approved, the U.S. payment will be in arrears (that is, the $85 million). This would be inconsistent with our global responsibilities.

REQUESTED INCREASE FOR CONTINUING OPERATIONS

Most of the Department's 1984 increase is necessary to continue operations at existing levels and to correct operational deficiencies. We must meet expected wage and price increases overseas, where inflation rates have been significantly higher than rates in the United States. We must respond to the growing demand for domestic and overseas passport and consular services—after all, that is a big part of what our Embassies are there for, and the demand for those services rises—and continue our efforts, as we have discussed earlier, to protect life and property abroad in an increasingly dangerous international environment.

PROGRAM INCREASES OF CRITICAL IMPORTANCE

The remaining growth in the Department's budget is devoted to upgrading several programs of critical importance to U.S. interests.

STRENGTHENING OF REPORTING AND ANALYSIS

First, we must continue the multi-year effort to strengthen reporting and analysis of foreign political and economic events. Our ability to influence international events is dependent upon knowledge of and sensitivity to unique national situations. The Iranian crises of 1979 show what can happen when we are inadequately informed.

No doubt we will never be completely informed, but we ought to do the best job we possibly can.

RENEWING AND UPGRADING OPERATIONAL CAPABILITY

Second, we must continue to renew and upgrade our operational capability. Failure to make these investments not only jeopardizes the effective conduct of foreign affairs, but also increases the cost of such necessary investments in the future. In this area, it is necessary for us to improve the security and reliability of the Department's telecommunications systems. The Falklands and Lebanese conflicts demonstrated the need for upgrading our crisis management communications systems, where we find ourselves suddenly with a crisis that emerges somewhere, and in order to deal with it effectively and deal with the people there, we have to have a level of communication and a security of communication that is special to the circumstances.

NEED TO IMPROVE SECURE COMMUNICATIONS

Senator **Laxalt**. What specifically is being done on the security side, bearing in mind that several months ago there were disclosures to the effect that even communications from Air Force One weren't that secure? Are we developing some new technology in these crisis situations?

Secretary **Shultz**. There is work being done on it and there are systems that are available that are better, as I understand it, than some of the systems we are using.

If you take the *Air Force One* example, when you are on *Air Force One*, you have in effect a choice. You can call out on a regular telephone line where the transmission is on the air and anybody can pick it up, just as any of your telephone calls that go across the country can be picked up. Or there is a secure phone.

By and large people resist the secure phone because it takes a long time to get the call through, and when you are talking it is sort of garbled and it fades. It isn't as good as it could be. So that needs to be upgraded.

There are systems in which I think the military has made the best headway. During the height of the Beirut crisis last summer we had borrowed some equipment from the military, which Phil Habib used and we used in the Department. It made it possible for us to carry on secure conversations. It is that type of thing I think we need to have that we don't have.

Senator **Laxalt**. I recall, Mr. Secretary, being with Senator Baker in Santiago, Chile, about a year ago last January. We had a problem when Secretary Haig called us. We had the worst time communicating. Both of us reflected at the time this was really a sorry state of affairs in this modern age to have such inadequate communications. It took us the better part of an hour to finally get this job done. By the time it was all over, I am not sure any of us knew what we were talking to anyone about. I for one am delighted to see that you are doing something there. In this present framework not to have reliable communications in this day represents a sorry plight.

Secretary **Shultz**. I agree. We are working on it. Of course, we do have good, secure word transmission communications, so that when you write a cable, it goes like that and somebody can send one back to you. But somehow that isn't quite the same thing as being on the other end of the telephone line and having a little back and forth exchange.

Senator **Laxalt**. Feel free, Senator Rudman, as we move along to join in.

Senator **Rudman**. That is fine. Senator Specter has now joined us.

Senator **Laxalt**. Senator Specter, welcome.

Senator **Specter**. Thank you.

RESTORATION OF OVERSEAS PROPERTIES

Secretary SHULTZ. The second point is to provide new facilities where needed and restore the condition of existing overseas property. Maintenance activities have been seriously neglected and renewal of our existing capital investment is both cost-effective and a high priority.

I think myself, Mr. Chairman, that we want to put forward an image of the United States abroad. Our embassies and residences do that, as well as, of course, our people. We don't want that image to be one of opulence or anything of that kind, but we do, I think, want to give the impression that we are a first-class nation and that we treat ourselves accordingly. We must pay attention to detail. We must maintain things properly and see to it that what we have is kept up well, that it is clean and orderly. All of those attributes, I think, are very important, and they do cost some money.

OTHER PRIORITY INCREASES

As we have said, we need to meet increased demands for the continued security of life and property.

Also, we must expand the Department's worldwide information processing capability to meet increased workload demands and to improve our management efficiency.

Further, we need to provide training for managers of the Department's recently upgraded communications and information systems.

Finally, we must improve our administrative support for U.S. Government activities abroad, particularly in lesser developed countries.

OPENING THREE NEW POSTS

Our 1984 budget also will support the opening of three new posts in Chengdu, People's Republic of China; Bandar, Brunei; and Enugu, Nigeria. Each of these is important to our foreign policy and commercial interests.

RELATIONSHIP WITH THE PRC

Senator LAXALT. Has the People's Republic of China situation been altered by the recent incident involving the tennis player? I mean in terms of this particular action.

Secretary SHULTZ. In terms of this action, no. We seek a stable, long-term relationship of mutual respect with the People's Republic of China. I think myself that somehow we have alternated between periods of euphoria and periods of depression, and we have to say to ourselves that we have some things about our system, our way of doing things, and our attitude toward Taiwan that are going to cause difficulties. Our problem is to manage that and in the meantime emerge from all this in a productive condition of mutual respect with the People's Republic of China. So I believe we should move ahead with efforts of this kind.

SUMMARY OF ESSENTIAL PROGRAM CHANGES

In summary, Mr. Chairman, this budget request provides program changes that are essential to the successful accomplishment of our vital foreign policy concerns. The continuance of an effective presence overseas in this complex global environment requires that the Foreign Service be able to accurately report and analyze the significance of foreign events.

One way of looking at my job, in fact, is to see to it that we use effectively the extraordinary talent of our people in the Foreign Service. And also to be sure we are recruiting and training a continuing stream of talent so that 20 and 30 years from now we shall have continued to build a firm base of personnel that is so necessary to our foreign policy success.

Our Foreign Service officers must be supported by effective communications and information management systems, as well as by appropriate security measures. The increases in this budget moderately address all these crucial areas.

Thank you, Mr. Chairman.

Senator LAXALT. I thank the Secretary.

Secretary SHULTZ. It says here now I am ready for your questions. I don't know about that. [Laughter.]

I spent 7½ hours testifying yesterday.

INTERNATIONAL TERRORISM

Senator LAXALT. Having been a Shultz observer of long standing, I think you will do all right.

According to your justifications, Mr. Secretary, the Office of the Secretary has responsibility for "enhancement of U.S. contingency planning and crisis management capabilities in dealing with international terrorists." I wonder if you would describe for the members of the subcommittee the activities of this office, and also in relationship to how this dovetails with the other agencies we have, principally in DOD, in dealing with the terrorist problem.

Secretary SHULTZ. I am going to need some help on this from Ambassador Sayre, I think.

I believe the best way to proceed with this would be for Ambassador Sayre, to make a descriptive statement and then let me make an interpolation.

Mr. SAYRE. There is an Interdepartmental Group on Terrorism, of which I am the chairman. I am also responsible in the Department of State for the overall coordination of security policy and programs. The Department of Defense and all of the law enforcement agencies of the U.S. Government participate in the Interdepartmental Group on Terrorism.

Senator LAXALT. Is this a tight group?

Mr. SAYRE. Yes; it is. We are responsible for development of the policy, seeing that the U.S. Government has machinery in place to deal with crises. And my office in the Department of State is responsible for managing a crisis overseas created by terrorism that has actually occurred.

In addition, the Department has internally a policy group on security policy and programs. We follow all of the intelligence worldwide that indicates there are any threats to any of our posts worldwide, and take the appropriate action, or see that it is taken, to handle the problem.

BEIRUT INCIDENT

Senator **Laxalt**. Speaking specifically of the Beirut incident, did you have any advance information, intimation of the kind of threat that finally materialized?

Mr. **Sayre**. No; we did not.

Senator **Laxalt**. None whatsoever?

Mr. **Sayre**. We know that Beirut is a threatened post, but we did not have any specific information on this incident.

ACTION WITHIN THE DEPARTMENT

Senator **Laxalt**. In terms of the crisis management situation, after this occurred, on an interdepartmental basis I assume that you all met. I wouldn't want you to reveal anything here that is classified. But so we get a better feeling of how you are structured from a management standpoint, how does this function in the way of action of the type we had in Beirut?

Mr. **Sayre**. Within the Department, the Under Secretary for Political Affairs has overall responsibility for crisis management. He immediately asked Mr. Veliotes, the Assistant Secretary, to set up the task force to follow the matter. One was set up. My office participated in it. But the action was not really to deal with a specific terrorist problem. It was to deal with a problem as it occurred in the bombing and the effect on the Embassy and so on. That task force is still in operation.

CAPACITY OF LEBANESE ARMED FORCES

Senator **Laxalt**. Have you arrived at any conclusion—perhaps the Secretary can speak to this—as to whether there is any validity to the Lebanese claims that if they were left solely to control their country's security, this type of situation would be less severe than it is presently? Have you arrived at a determination or evaluation on that kind of position?

Secretary **Shultz**. Beirut has been in pretty good shape since the foreign forces basically left there. Of course, the multinational force is there to be helpful. But basically the Lebanese Armed Forces have taken over there.

This tragedy I take to be a sort of random event and I don't think reflects badly on the Lebanese in the sense of its being something that couldn't have occurred in any one of a large number of countries, including this one. But we believe if the foreign forces leave Lebanon, that the Lebanese armed capability will develop and mature and be able to operate effectively. It won't happen instantaneously, but the training efforts that have been made there have been paying off. We look with a reasonable degree of confidence at that capacity.

I think it is also true that when people are faced with a challenge of running their own country, as distinct from somehow struggling along with occupying forces, perhaps they have a greater sense of responsibility for what takes place.

STATE DEPARTMENT OPERATIONS CENTER

I might just say, supplementing Ambassador Sayre's answer, that probably you have visited the Operations Center in the State Department. Have you been up there on the seventh floor in the Operations Center setup? It is a 24-hour-a-day operation capably manned. It has people who know the various areas involved, so that they are able to assess information that comes in and quickly pass it on to the relevant level, including me or including the President. We have there some rooms that can be set up for special task forces. They are immediately equipped with telephones and so on. You can bring people in there, devote that space to a particular crisis area, and you are in business like that, from our end of things.

I think it has a pretty good setup, and we are working to upgrade the communications, the general technical capability of that center.

Senator **LAXALT**. Gentlemen, do you have any questions in this particular area?

Senator **RUDMAN**. I have one, Mr. Chairman.

Senator **LAXALT**. Please proceed. I think as we open up each area for discussion, let's go right on through the committee for questions. If you have any questions, go ahead.

SECTION 660 LIMITATIONS IN THE FOREIGN ASSISTANCE ACT

Senator **RUDMAN**. Thank you very much, Mr. Chairman.

Back several months ago Ambassador Sayre appeared before our Foreign Operations Subcommittee of the Appropriations Committee, on which I also serve, and testified at great length. One of the things that he spoke of, which was something that I wanted to talk to you about this morning anyway—and I looked, I got a copy of his testimony from back there several months ago before the Foreign Operations Subcommittee. You referred, of course, to provisions of section 660 of the Foreign Assistance Act.

Now, of course, we all know and are familiar with section 660, which places limitations on the kind of training we can give to police forces in a number of countries throughout the world. That restriction was a congressional restriction, which I understand was placed because some people were concerned that if police training were given by our country to those foreign police officers, they might in some way turn that training in an oppressive way against their own populations.

Is that your understanding of what section 660 was intended to do originally?

Secretary **SHULTZ**. I think so, yes.

TRAINING LOCAL POLICE TO DEAL WITH TERRORIST INCIDENTS

Senator **RUDMAN**. Now, if we agree on that, Ambassador Sayre in his testimony said that this new program of training was going to be attempted notwithstanding section 660 because you would not be training policemen as policemen but training policemen, if I understood your testimony at that time, as antiterrorist forces to be a protection to Embassies and so forth. Am I correct on that?

Mr. **Sayre**. We wouldn't be training antiterrorist forces as such, but we would be dealing with the proposal to train individual police leaders or law enforcement officers on how to deal with terrorist incidents.

Senator **Rudman**. Well, that being the case, Mr. Secretary, here was my question. I wanted to first see if we all agreed on the facts, because sometimes we don't. There are so many sections involved in this act.

It seems to me that the security that we depend on worldwide in the main, unless we have a compound, and even with a compound it only extends to the street, we are depending on the security forces of the nations that are the host nations.

Secretary **Shultz**. Absolutely. We must have the host nations provide basic security for our missions abroad.

Senator **Rudman**. With all due respect to the bravery and competence of the Marine forces that guard our embassies, they only are going to guard those embassies in a very encapsulated way. In terms of activities generally, it is the local police forces, be they part of the military or part of the civil police, that you are depending on; is that not correct?

Secretary **Shultz**. Yes, sir.

ADVISABILITY OF REVIEWING SECTION 660

Senator **Rudman**. That being the case, do you think we ought to take a strong look at section 660? This is not particularly for this committee specifically, but you are here this morning and we don't have that many chances to talk to you here in public hearings. Do you not believe we ought to take a fresh look at 660 and recognize we have on balance inequities? Although it is possible there may be some oppression due to some training, that unless we have first-class police forces in the capitals of the world in which we have embassies, we are not going to be able, no matter how much money we spend on security, to guarantee their security in any way. Is that not an accurate statement?

CONCERN FOR LOCAL ANTITERRORIST CAPABILITY

Secretary **Shultz**. I think that is a very good suggestion. No doubt to the extent that revisions are called for, they have to be made with the original concern in mind, and see if there aren't some ways to meet that concern without throwing in a wholesale prohibition on activity. But I would say at the same time, too, we don't want to take responsibility as the United States for training all the police forces of the world. It is basically a responsibility of a government to maintain law and order in its society. In fact, to my mind, the first and fundamental role of a government is to maintain law and order in its society, to present a stable society. If you take the Lebanon situation, for example, what is it that the Lebanese Armed Forces will be called upon to do, let's say in southern Lebanon, if we can arrange a removal of foreign forces there? What they will have to be able to do is have an intelligence capability about potential terrorist PLO elements that might try to reinfiltrate that area, and then have a capability to go after those terrorist elements and get them out of there. So that is an antiterrorist capability. That is what is needed; that is what the Israelis are very interested in seeing put there, and the Lebanese as well. Both feel a very strong stake in not having that area re-emerge. So this also gets right at your question.

POSSIBLE REVISIONS OF SECTION 660

Senator **Rudman**. I would hope, Mr. Secretary, that the State Department would look at section 660. Ambassador Sayre indicated in his testimony that you design a program to work, if you will, in conjunction with the line of 660. Maybe there ought to be some changes. Maybe we are operating in an environment that requires some changes, because we are utterly dependent on local security forces for the security of our embassies.

I would only say of the situation in Lebanon, it is easy to second-guess, but I seriously question whether or not police forces, knowing the situation in Lebanon, were really on their toes to allow unrestricted, uninspected vehicular traffic to enter the area and the streets leading to the American Embassy. I mean, we all know with the power of explosives today that an automobile can be used as an enormously powerful instrument. You can check every suitcase coming into the Embassy, but you can park a car in front of the Embassy. We see that in Northern Ireland.

I just want to point out to you your own evidence, which you presented, which was overwhelming. This is a State Department report, which I am sure you are familiar with, showing the incidents from 1968 to 1981 of terrorism against diplomats in general, and then this particular chart showing who the victims are. Of course, North America—that is mainly the United States of America—is that first blue bar.

I am only going to say that I would support any reasonable change you would want to make in 660. I think you have a situation now where we ought to do more to train host nations who want to receive that training from our experts in antiterrorism because we will have these incidents happen again and again and again, no matter how much security we spend on communications, on Marine Corps guards and so forth, if we allow unrestricted entrance to our embassies. I don't say that in a critical way. This was a sad and horrible situation. We ought to at least realistically understand how it happened. If we don't have well-trained local police forces, we are going to, unfortunately, endure the sadness of this coming Saturday of more and more bodies coming back to our Nation from these embassies. I think the Congress ought to be told that in no uncertain terms.

If we ought to change 660, we ought to have a good, hot debate about it and change it and support your changes.

That is what I wanted to say this morning.

Secretary **Shultz**. Do you have any comment on that?

AGREEMENT TO REVIEW SECTION 660

Mr. **Sayre**. Senator, as the Secretary has just agreed, we will, of course, do a review. My only comment would be that we have an urgent need to move ahead in cooperating with other governments on terrorism. I wouldn't want any review to hold up the specific proposal that the administration has in front of you.

Senator **RUDMAN**. I am not suggesting it should.

Mr. **SAYRE**. That has been delayed now for a year. We would really like to move ahead with it as quickly as possible and would work with other governments on this subject. But we will conduct the review you request.

Senator **LAXALT**. Senator Specter, do you have any questions?

QUESTIONABLE RELIABILITY OF CERTAIN FOREIGN GOVERNMENTS TO MAINTAIN SECURITY

Senator **SPECTER**. Yes, Mr. Chairman. I would like to follow up on what Senator Rudman has asked about.

Beyond the revisions of 660, it is my sense that we ought to reexamine the principle of relying upon foreign governments to provide law and order and security for American Embassies. We have now had within the course of 4 years, two very cataclysmic events: The seizure in Iran and now the bombing in Beirut.

On Monday I had occasion to address some town supervisors from Pennsylvania. When the news came in, people were just horrified. The question is what can be done?

Yesterday people said to me we ought to start to back Iraq in the Iraq-Iran war on the proposition that Iran is responsible. People do not want to hear that we cannot lash out indiscriminately, we cannot act against those unless we can prove who did it. That is an impossible proposition, which leads me to think that we have to prevent it.

I think we simply cannot rely in many parts of the world on the local governments to maintain the kind of law and order and security which we require.

Now, I have seen some of the problems in a city like Philadelphia with a very moderate kind of terrorist activity. So I would urge you, Mr. Secretary, to really reevaluate the matter. We used tremendous resources in the Carter administration trying a rescue effort, and we risked a world war in that particular action. I am not saying whether it was good or bad what President Carter did. But if it takes a small army in places like Iran or in places like Beirut, my sense is that the Congress would support whatever cost it took to prevent it, because we are in very hot water when we look for ways to retaliate or to correct the situation. An ounce of prevention, it might cost substantial money, would be very small compared to the other costs.

I would like to see us have whatever forces are necessary to protect it ourselves.

Secretary **SHULTZ**. I appreciate your comments very much. You encourage us in the effort to examine this question and then reexamine it, to look at the budget request we have in front of you, to perhaps feel free to amend it if we see some ways in which this could be beefed up to call your attention to the proposals that Ambassador Sayre mentioned, and also to review the section 660 situation. So we will, I assure you, give this a very comprehensive going over and come back to you on it.

DEPARTMENT'S SECURITY POLICY REVIEW AND IMPENDING REVIEW OF BEIRUT INCIDENT

Mr. **Sayre**. Senator, we did a thorough review of our policy on security, not including the current incident in Beirut, last year in the Department of State. We can provide to you the Department's review which is a government-wide policy statement on the protection of American citizens overseas. I have a copy here with me, if you would like to have it.

We will also be reviewing, as we do in every case, what happened in Beirut, how it happened and what effect that should have on U.S. policy and programs and procedures. We have already moved to set up a policy review team to do that.

Senator **Specter**. What I would like you to know, Mr. Secretary, is when the President would come to Philadelphia, when I was district attorney, we had local law enforcement to protect him, but he brought in his own army. He did not rely on the Philadelphia police or the Pennsylvania State police. He brought in his own army to see to it that it was done and done right. I regard the U.S. Embassies of that importance.

Secretary **Shultz**. Thank you, sir. I think we have this report, as the Ambassador mentioned. It is always true in a department—maybe I am misstating the Ambassador, so correct me if I am wrong—that when you review something, you can't help saying to yourself well, gee, that might be desirable, but there is no way we are going to get that through the Congress, so let's just not annoy people by asking for things we think are out of bounds.

The message that I am getting here is "Let's go at this from the standpoint of what it would take to do the job, and if we just can't quite do that, for reasons of the political process, well, let's let the political process tell us how, rather than, in a sense, make that judgment ourselves." Let's give you a kind of unvarnished statement. We will see where we go from there.

I am not saying your statement is anything but exactly what you think the situation is. I know you can't help but think of it that way. But if the mood is such to really bear in on this, let's do it.

Senator **Rudman**. Mr. Secretary, I would simply respond by saying for those who wish to oppose the measures that must be taken in the eyes of experts, let them rise on the Floor of the House and Senate and make those public statements and let us who disagree with them, disagree with them. Let the political process work.

Secretary **Shultz**. OK.

ROLE OF THE BUREAU FOR INTERNATIONAL NARCOTIC MATTERS

Senator **Laxalt**. Let's move into another rather important area, and that is the matter of organized crime drug smuggling.

Mr. Secretary, what is the role of the Office of International Narcotics Matters? What is the connection of that office to the overall Presidential initiatives in this area, dealing in particular with Justice? Are you working directly with Justice?

Secretary **Shultz**. Yes, sir, we work very closely with Justice. As a matter of fact, we have completed two very worthwhile trips within the past 8 months, just getting back here recently. I think that this pattern of cooperation is pretty good. It is certainly a lot better than what I observed when I was in the Government the last time. As you know, the Treasury gets involved in this, too. So I had some insight before this.

Perhaps you could comment more specifically on just what the office does and how you see it working.

Mr. **Feldman**. Mr. Chairman, the responsibility for narcotics control flows from Section 481 of the Foreign Assistance Act, and it is delegated by the Secretary to the Assistant Secretary for International Narcotic Matters. That makes us an integral part of the President's force for the prevention of drug abuse and narcotics traffic.

As the Secretary stated, we work very closely with the Justice Department, particularly in negotiating extradition treaties and sharing intelligence and information in terms of drug trafficking.

Secretary **Shultz**. There is also a considerable effort on prevention at the source. I visited Mexico earlier this week. I think our efforts there over the years have paid off very well 'The country that we are working with is as concerned as we are. We try to make them so, and usually they are concerned because the existence of a large drug element as a producer unit in a developing country often produces almost another government there. So much money accumulates that they see it as a threat to their own capacity to govern. So we are able to work effectively with many governments around the world in this regard—not always as well as we think, but I believe it is a good program and is gaining ground.

CLAIMS AGAINST THE GOVERNMENT OF IRAN

Senator **Laxalt**. There has been reference here by Senator Specter to Iran. I would like to have someone describe the activities which we notice in the justification of some 20 attorneys who apparently are handling Iranian claims in the Office of Legal Advisor. It was our understanding that President Carter waived all claims against the Iranian Government as part of the negotiations to release U.S. hostages taken November 4, 1979. For the purpose of the record, may we have some clarification of that?

Secretary **Shultz**. Well, of course, there are lots of claims and counterclaims. There is a pot, so to speak, set up. The Department of State is heavily involved, and there are a lot of private litigants trying to work these things out. Why don't you go ahead and explain, Mr. Feldman? I give you the facts and then he gives you the true facts. [Laughter.]

Mr. **Feldman**. Mr. Chairman, there are claims totaling over $40 billion between the Government of Iran and the Government of the United States, and there are in excess of 3,000 claimants. This is a massive undertaking. Our attorneys are working both here and in the Hague in front of the Claims Tribunal to resolve the differences and settle these claims.

CARTER WAIVER

Senator **Laxalt**. Has there been a legal determination anywhere along the way, either domestically or internationally, as to the validity of the Carter waiver?

Mr. **Feldman**. It is my understanding, Mr. Chairman, that the U.S. did not waive its entitlement to the Embassy and Consulate property, nor did the U.S. waive any right to bring other unrelated claims against Iran; for example, contractual claims.

Senator **Laxalt**. So the waiver, if I understand you correctly, was rather limited in scope. This general impression we have of its being a general waiver is incorrect.

Mr. **Feldman**. That is correct, Mr. Chairman. I am afraid we don't have any of our attorneys here to give the precise language, but the Algerian Accord, I believe, waived claims related to invasion damages resulting from the specific taking of the Embassy in Iran. As to contractual claims or claims for property damage associated with it, it is the U.S. position that we still are entitled to make those claims.

Senator **Laxalt**. I would imagine it would raise rather serious constitutional implications to have that broad kind of waiver, wouldn't it?

Senator **Rudman**. I would think so.

Senator **Laxalt**. That is probably the problem.

One last question. We have others that we will submit to you, Mr. Secretary, so your people can respond to them.

Secretary **Shultz**. Yes, sir.

LEGISLATIVE PROPOSAL OF NONIMMIGRANT VISA WAIVERS FOR CERTAIN LOW FRAUD COUNTRIES

Senator **Laxalt**. Given your request for more resources for alien visas, and given our desire to promote U.S. tourism overseas, has the Department considered recently cutting back on visa requirements so it makes it just a little easier for us to make the tourism program, which many of us think has enormous potential, work a bit better?

Mr. **Feldman**. Mr. Chairman, it would mean a considerable lightening of workload for us if we should receive the legislation that would enable us to waive nonimmigrant visas in low fraud countries. We have been seeking this approach for several years. The Department's proposal is now contained in the Simpson-Mazzoli immigration bill which the Congress is acting upon presently. In that bill, there is a 3-year pilot program for eight countries with low visa fraud. We would select from those countries and waive the nonimmigrant visa.

I am afraid I couldn't estimate what the number would be, but it would be in the order of magnitude of millions of visas that would be waived, even under the limited program contained in the Simpson-Mazzoli bill.

Senator **Laxalt**. I gather the Department's position is favorable?

Mr. **Feldman**. Yes, Mr. Chairman.

Senator **Laxalt**. Gentlemen?

Senator **Rudman**. No questions.

Senator **Laxalt**. Any questions on this or any other subject to the Secretary or any of his people?

SUMMIT ISSUE ON ARMS CONTROL

Senator **Specter**. Yes; I would like to ask a question. Thank you, Mr. Chairman.

Mr. Secretary, on page two of your statement you talk about imaginative efforts on arms control. I have a concern about the summit issue and have expressed it in a number of ways. One was about a year ago on the sense of the Senate resolution, which was passed about 90 to 8, where the Senate said that it was our sense that there should be an immediate summit. At that time Secretary of State Haig took the position that it was premature and there should be more time for laying a foundation.

I have reintroduced it just a few weeks ago in anticipation of the issue on Ambassador Adelman to focus attention on it.

The concern I have is President Reagan is an extraordinary diplomat in his own way and reaches enormous achievements in face-to-face discussions. Witness his persuasion power with the U.S. Senate and the House again and again and again. When he goes overseas——

Secretary **Shultz**. I hope it continues. [Laughter.]

Senator **Laxalt**. The next few days anyhow.

Senator **Specter**. I do, too, generally.

Senator **Rudman**. That is a very good phrase. [Laughter.]

Senator **Specter**. There are some issues we have to discuss. We can't give him cart blanche. We have article I considerations.

But when he has dealt overseas, he has been magnificent. The picture that comes through in dealing with the President is totally different from the picture that comes through in reading about the President. I am not blaming anyone for that, but I would like to see the President at the summit.

We have Mr. Andropov calling the President a liar and insane. That is a question of whether he is a liar or just doesn't tell the truth. Like you say, the truth and the whole truth. The President talks about the empire of evil. I have a strong sense that if they got together, that a lot of air could be cleared. In 1984, the President is either going to be about to retire or a candidate. We are stationing the Pershing IIs and cruise missiles in late 1983. I would like your thought about why not a summit now.

Secretary **Shultz**. Well, first, I appreciate your comment very much. Second, I agree with your assessment, having watched it, both here and traveling with the President abroad. He has the kind of personality that people warm up to, and a rather direct way of saying important and frank things that is very nice. People accept the things he says as being reasonable. As we hear people who have come here or we hear about reactions when the President has traveled, the comments are uniformly about the warmth of his personality; he is a real human being, and as I managed to get my points across to him, I learned something from the discussion. So I agree completely with you that we have a great asset for our country in the President and his abilities.

When it comes to the question of a summit meeting with Mr. Andropov, we have talked about that a great deal; the President and I have talked, as well as others. Our feeling is that it would be a very good thing to do if we could have the substance developed to the point where there would be a good prospect of an important and significant outcome, as distinct from what you might call the "getting to know you" type meetings.

Our concern is that if it is just "getting to know you" and there is no substance, the result will be something of a letdown. Perhaps you remember the meeting of President Johnson with—who was it?

Senator SPECTER. I think it was Kosygin.

Secretary SHULTZ. They went halfway between New York and Washington and wound up in Glassboro, N.J.

I think there was a kind of euphoric feeling for a while as a result of it. Then when nothing happened of any significance, there was a feeling of letdown.

So I think it is incumbent on us to work hard at testing and probing to find out from the Soviet Union if we can identify substantive areas where we might accomplish something. If we can do that, then I think the President would feel it worthwhile to have such a meeting. That is the way we have tended to look at it.

Senator SPECTER. Mr. Secretary, I would urge your reconsideration on grounds that this is not 1981 or 1982, that it is 1983, and this may be the last year he can do it, and it would be nice to have substantive closeness to sign off the deal, but it is a very different picture now. The second consideration that I would suggest to you is that President Reagan is not President Johnson and that we have a very different national asset in President Reagan.

Secretary Shultz. I will report your views to the President.

TRIAL CASES IN EL SALVADOR

Senator SPECTER. I had a chance to give them to him over the telephone on the Adelman issue, but not quite at this length.

Mr. Secretary, I would like to ask you about El Salvador, an update. We had occasion to talk about this recently, and I am very much concerned about the issue of the trial cases. Is there anything current on the nuns' case?

Secretary SHULTZ. There is no recent information that I have in mind on that case. We have made clear our views repeatedly. There is a process that is prescribed. The individuals involved are not free. So all of those things are true. Yet the process of actually bringing trial and, if the trial shows, of convicting the criminals and dealing with those cases, is not in satisfactory shape.

FOREIGN POLICY ON ARMS SALES TO ISRAEL

Senator SPECTER. Mr. Secretary, there is a sense of the Senate resolution which is currently being circulated—Senator D'Amato was the principal sponsor on the issue—on the F-16's. This would be I think an appropriate occasion to ask you if there is any change in U.S. foreign policy on not linking sale of arms to Israel, like the F-16's, with a change of Israel's possible actions as to Lebanon or the West Bank.

Secretary SHULTZ. The situation on the F-16 was shortly after the Israeli invasion of Lebanon. As required by law, a report was made to the Congress that there may have been—there was never any determination—a violation of the restriction on the use of those weapons for other than defensive purposes. I don't know that

I am stating this precisely right, but that is the general idea. At the time, the notification on the F-16 was held up.

There hasn't been any change. There hasn't been any intervention of that issue into any dealings, or saying if you do this, we will do that. The situation remains unchanged.

The President made a statement, in response to a question at a public meeting in Los Angeles recently, that was interpreted as a change. It wasn't a change at all; and it wasn't an effort to step up pressure or anything of that kind. As a matter of fact, I think we have been trying to look very sympathetically at some of the points that have been raised by Israel.

Mr. Aarons recently raised some questions about the LAVE aircraft. In response to his request, the President felt we should go ahead and release the ability to purchase those various licensed goods. So we have looked sympathetically at those requests.

MEXICAN VIEW OF SITUATION IN CENTRAL AMERICA

Senator **Specter**. Mr. Secretary, you mentioned your trip to Mexico. A number of us had occasion to meet with the Mexican Foreign Minister in connection with the IMF issue. I was shocked to hear him say that he did not think that the Soviets had any involvement in supplying the rebels in El Salvador. We had quite a protracted discussion on that point. Did you find him of that mind?

Secretary **Shultz**. When was it that you had that discussion?

Senator **Specter**. That was 3 weeks ago.

Secretary **Shultz**. No, I didn't find him of that mind. I don't like to quote people, but I spent a great deal of time with many Mexican officials and with the President of Mexico. I find them very concerned about the situation in the area. At least the impression I got was that it was fairly clear to them analytically what the situation was.

Senator **Rudman**. Would the Senator yield for a moment?

Senator **Specter**. Yes.

SOURCE OF WEAPONS EXPORTED TO CENTRAL AMERICA

Senator **Rudman**. It would seem that the incident in Brazil in the last 48 hours would leave little doubt whatsoever as to the original source of weapons that are going into Central America. Now, what their purpose may be can be debated. But I don't think the Libyans at least at my last information manufactured mortars, submachine guns, heavy machine guns, and light artillery, which are hardly medical supplies.

Secretary **Shultz**. They cause the need for medical supplies.

Senator **Rudman**. Right.

Secretary **Shultz**. Maybe that is what they had in mind.

Senator **Rudman**. So no matter what anybody thinks at this point it seems to me is academic. When you are faced with that kind of hard evidence, where I am from there are some inescapable conclusions you reach, and I have reached some.

Secretary **Shultz**. I have, too. I believe the evidence is so—there are lots of things to argue about. That is not one. That is just a matter of fact.

CONSIDERATION OF OPENING CONSULATE IN KIEV

Senator **Specter**. I was very surprised to hear his statement on it. We had a protracted discussion on it. Perhaps that helped a little in advance of your trip.

I just have one other question, Mr. Secretary. I had written to the State Department, to you, on two matters. One involved the possibility of a consulate in Kiev. I had occasion to visit the Soviet Union. The Embassy officials in Moscow were very interested in my efforts to push that issue. I had occasion to visit Kiev. I had a very interesting trip where I found the birthplace of my father 160 miles southwest of Kiev. Quite a remarkable experience. I found a man who knew my father.

When I was in Kiev, I noted the problem of Soviet Jewry. There is a very strong feeling there that if there were a consulate, more of an American presence, that it would be enormously helpful.

I had written you about that subject some months ago and would appreciate it if you could give me a reply or consider that issue, because I think it would be a very worthwhile investment.

The second letter I wrote——

Secretary **Shultz**. Could I make a comment?

Senator **Specter**. Of course.

Secretary **Shultz**. I appreciate that comment very much. As you know, there was at one time a moving agreement that the Soviet Union would open a consulate in New York separate from their U.N. Mission, and we would open one in Kiev. That was basically put on ice by President Carter, I believe, in response to the Afghan invasion. At any rate, I welcome your comment and your thought, and I will take it into our considerations.

Senator **Specter**. I would call that reason given by President Carter—it didn't seem to be a good reason then, and if it had any merit then, I think it does not now, given the problems of Soviet Jewry and the presence there—there is a very different picture on the Soviet Jewry situation in Kiev contrasted with Moscow. In Moscow when the Soviet Jews would meet, they were frightened, but in Kiev not at all. You had to go to their houses. It was just a different level of terror.

Secretary **Shultz**. I appreciate your comment. Again, I will report it to the President.

EXCHANGE PROGRAM

Senator **Specter**. A final letter I have written to you was about your very excellent installation in Spain. A delegation to NATO last year stopped there. I had met a very remarkable Spaniard who was very interested in the exchange program to work in a Senator's office. I was the Senator on the spot.

I had written to you wondering if that might be done, perhaps with the transfer of some of my funds to your Department, modest as they might be.

Secretary **Shultz**. Well, it would be a very worthwhile effort. Let us try to work that one out.

Senator **Specter**. I had written to you and I had not gotten an answer, several months ago.

Secretary **Shultz**. Several months ago?

Senator **Specter**. In November.

Secretary **Shultz**. That is one of the managerial problems that drives me crazy. I get these letters sometimes to sign and will look and read the letter to see whom we are responding to. As you know, the letters go into the letter writing machinery and we get them by the thousands.

Senator **Specter**. Mr. Secretary, I am not——

Secretary **Shultz**. I see the date on what I am responding to, and, my gosh, we should do better than this.

Senator **Rudman**. We all say that, Mr. Secretary.

Senator **Specter**. Mr. Secretary, I am not complaining about it. We all live in a glass house on that subject.

Secretary **Shultz**. But summer is coming and that is the time when these exchanges take place. So let us take a special look and make an effort on that.

Senator **Specter**. Thank you.

Thank you, Mr. Chairman.

CONSUMER PROTECTION GUIDELINES

Senator **Laxalt**. Our ranking minority member, Senator Hollings, reports that he could not be present this morning. He has a statement and some questions regarding the consumer protection guidelines of the Economic and Social Council that I will place in the record at this point:

[The statement follows:]

PREPARED STATEMENT OF HON. ERNEST F. HOLLINGS

U.S. SENATOR FROM SOUTH CAROLINA

CONSUMER PROTECTION GUIDELINES

Concern has been expressed to me of the Economic and Social Council's (ECOSOC) proposed U.N. consumer protection guidelines. In the view of some, the consumer protection guidelines are another example of a U.N. Charter. There is a genuine fear that if placed in the hands of a totalitarian government, barriers to the marketing of pesticides, drugs, food, and consumer products coulld be enacted and sanctioned in furtherance of the proposed U.N. guidelines.

It is my understanding that comments have been submitted by the Department of State to ECOSOC, too late for substantive revisions in the guidelines as they will be presented to the ECOSOC meeting this summer. Apparently, the U.S. comments are weak, ineffective, and generally passive although they raise questions and concerns which U.S. firms share.

It certainly appears that the impact of the guidelines on U.S. exports has not been evaluated as might be expected since coordination of the administration's response was vested in Virginia Knauer's Office of Consumer Affairs. For example, we have learnes the Agriculture Department's Under Secretary for International Affairs was not consulted in the preparation of the U.S. comments.

While I am not fully acquainted with this particular issue, it appears to be another example of our biggest trade problem; namely, the tendency of the Department of State wanting to represent everybody except the United States. In order to gain a better understanding of this issue, I have some questions to submit on behalf of those truly concerned with the proposed guidelines.

QUESTIONS SUBMITTED BY SENATOR HOLLINGS

(The following questions were not asked at the hearing, but were Submitted to the Department for response subsequent to the hearing:)

Q. Mr. Secretary, the proposed U.N. Consumer Protection Guidelines appear to be one more in a series of global regulatory proposals emanating from U.N. agencies. In view of the significant U.S. funding of the U.N. activities, what steps has the Department taken to reign in the U.N. bureaucracy and return to the basic principle of the U.N. Charter?

A. We share your concern that the United Nations has failed to distance U.N. development and communications theories from statist solutions as well as to contain U.N. budget growth within disciplined bounds. A prevailing attitude taken in the United Nations system regarding development issues accords a dominant place to the state, and denigrates the role of the market economy and the private sector. This failure lies less in any U.N. implementation of this approach than in U.N. advocacy of it, in spite of abundant historical and empirical evidence that it just does not work. Our own government finds an additional flaw in this approach; namely, a minimal concern for individual liberties.

Concepts such as the New International Economic Order and the New World Information and Communication Order begin from the basic premise that the problems of developing countries are essentially created by forces external to them. The initiatives are attempts to impose global solutions on what for the developing countries are serious, deep-seated and individual problems. There is no disagreement that attention needs to be given to solving these problems. But the question is how to proceed.

Our basic concern is that the proposed solutions these approaches offer--widespread government involvement and controls, and restriction of private initiative--have not by and large prompted development but discouraged it. We do not find this surprising since in our view the single most important element in development is the freedom which unleashes creativity and initiative. What we do find surprising is that many U.N. members despite decades of failure by controlled economies cling to solutions that history has discredited and these same U.N. members often condemn those solutions that have been shown to work.

In these cases, as in the others, we believe we have constructive alternatives to offer. We do not deny that, for various reasons, it may be necessary for governments in poor countries to play a somewhat larger role in development and communications than in developed countries. But within the U.N. system, we are urging the proposition that the presence of freedom and individual incentives, not government pervasiveness, is the climate in which economic development prospers.

A second failure in the U.N. system is that of undisciplined budget growth. The U.N.'s assessed budget has grown from $226 million to $756 million, or more than three-fold in the last ten years. In these times of budget stringency felt by governments all around the world, that rate of growth is plainly excessive. No government can justify to its citizens such large increases in multilateral programs while its own domestic programs are being significantly reduced. It is inevitable that such rapid growth in programs would spawn inefficiencies and redundancies.

The U.S. is in the forefront urging fiscal responsibility and facing up to economic realities. As the largest contributor to the U.N. budget, we can expect--indeed we must insist--that some of the same budget restraint we have applied to our domestic programs be applied to international activities.

The specific 1983 and 1984 budget policy of the United States Government for international organizations is "zero net program growth and significant absorption of non-discretionary cost increases" such as inflation and unfavorable currency fluctuation. We insist on this belt-tightening not only in recognition of the financial straits of the major U.N. contributors, but also in the belief that many U.N. agencies could do more with their current level of resources if they were more rationally managed. The agencies must set realistic goals, eliminate obsolete and low-priority programs, reduce conference days in session, and tighten up on discretionary expenditures such as travel, printing, and communications.

These failures just described are major challenges that we must meet in the U.N. and other international organizations. We are meeting them--directly, firmly and resolutely. I would like to explain how we are doing so.

The United States has an obligation to sustain multilateral diplomacy in today's world. We do not shrink from that obligation. Fully 25 percent of the cost of supporting the United Nations system is borne by the United States. It is only reasonable for us, therefore, to reassert our leadership in international forums.

One element of leadership is to speak out clearly for what one believes and to make clear what it is that one cannot accept.

A second aspect of leadership--one much more difficult to sustain--lies in the advancement of fresh ideas that are practical and constructive. Our effort to win a place for the private sector in U.N. programs is an example of this.

An effort we have given top priority has to do with increased participiction of the private sector in international organizations. Just as war is too important to be left solely to the generals, multilateral diplomacy is too important to be conducted by governments alone. Consultation with businessmen, academics, officials of voluntary organizations, and others who are responsible for so much of the potential vitality of our society is left untapped.

We deplore the United Nations' strong tendency to denigrate the private sector, to espouse the view that multinational corporations create impediments to development in poor countries, and to assign to governments an interventionist role in the market economy. In response, we are losing no chance to encourage developing countries to place greater trust in the market mechanism and to rely to a greater extent on the private sector as the engine for development and economic growth.

We are also-committed to persuading the private sector to involve itself more extensively in U.N. activities. We are currently pursuing two specific initiatives:

The first initiative is the creation of an informal private sector group to advise us on the broad policies we might adopt in multilateral organizations. We want this group to be representative of the entire spectrum of activities in the private sector, including those of research organizations, business associations, corporations with international interests, the academic community, and others. Our first meeting is to be held in early May, focusing on UNCTAD VI.

The second initiative is more of a question at this time. How can the private sector become more directly involved in financing U.N.-sponsored activities that directly benefit private sector interest. We believe that private sector contributions to certain worthwhile international projects would demonstrate our private sector's serious concern for engagement with the developing countries.

What we have in mind is exemplified by an initiative taken in the International Telecommunication Union by the head of our delegation to last fall's Plenipotentiary Conference. Both he and major U.S. telecommunications equipment manufacturers, with

U.S. government cooperation, developed a privately funded technical training program. This program provides the opportunity for developing country technicians to spend several months in the U.S. undergoing specialized training. This program will be founded, funded and managed by the private sector. The private sector might consider funding further activities of this type and others to achieve similar benefits for developing countries.

To conclude, the Reagan Administration understands and appreciates the benefits that international cooperation has brought to our world for nearly four decades. The United Nations technical, developmental and humanitarian agencies have made a significant contribution to the welfare of all member states. The United Nations system, however, suffers from system-wide flaws that are damaging the effectiveness of these agencies as useful instruments of international cooperation. We are attempting not only to stop this deterioration, but are also proposing constructive alternatives to the practices and positions we criticize. Our purpose is to make the United Nations system work--to produce genuine economic and social development, to advance the genuine sharing of information, and to advance genuine progress in reaching the technical and humanitarian objectives with which the agencies have been entrusted.

Q: In deciding on the U.S. course of action on UN regulatory proposals, does the Department use any regulatory analysis such as that prescribed in Executive Order 12291? If not, why not? If so, what are the costs and expected benefits of the UN Consumer Protection Guidelines to U.S. industry?

A: For the most part, regulatory activity within the UN system is confined to non-binding recommendations to the member Governments. Countries choosing to adopt such recommendations must do so within the framework of their own legal and political system. The United States has opposed, and will continue to oppose, any such recommendations that the United States would not be prepared to seek to implement as a matter of policy, or that could not appropriately be implemented under our constitutional and legal system. Whether the potential net benefits from such proposals would clearly outweigh their potential costs (in terms of effect on such matters as competition, employment, investment, productivity, innovation, and the ability of U.S. firms to compete in domestic or foreign markets) is a major consideration in reaching such determinations. In the case of regulation of technical matters by the specialized agencies (eg. ICAO), we make a particular effort to consult with the Congress and with relevant elements of the private sector to ensure that such regulation is technically appropriate and cost-effective.

It is not possible to precisely quantify the expected costs or benefits to the U.S., whether to industry, consumers, or other groups which might be affected by the draft guidelines, because if approved by the UN they would be recommendations which might or might not be implemented by the individual members of the UN through legislative or regulatory activities which they regard as appropriate to their national legal systems.

Nonetheless, there are provisions in the guidelines which, we believe, would be inappropriate or undesirable, and carry greater costs than benefits if implemented by some countries. Our response pointed out that "the Guidelines assume that national governments play a pervasive role in all aspects of the lives of their citizens -- a concept contrary to the United States' political and economic system. For this reason, it is probable that a number of the proposed provisions would be inapplicable to the United States." When faced with proposed UN recommendations (whether addressed to the U.S. or other countries) which we believe to be undesirable or unwise, we seek to eliminate the provisions or, alternatively, to modify them to be consistent with what is viewed as good sense in the United States. This is the basis for our detailed comments on the guidelines.

Q: The general principles contained in the Consumer Protection Guidelines dictate tnat, "The introduction of new products and changes in the distribution system...must be assessed in relation to local conditions..." While in the United States much assessment is made by the producer that would introduce such new products, the guidelines appear to advocate governmental control of this function. Isn't our participation in the development of guidelines based on a controlled economy totally antithetical to our free market system?

A: Many of the provisions of the draft guidelines are ambiguous or susceptible of more than one meaning. In the case of the guideline cited, while it is possible to interpret it in a way which is consistent with the U.S. approach to some products (for example, pharmaceuticals, which must be approved by the government before being generally available even by prescription), of course the most likely interpretation is governmental control over market access, as pointed out in the question. Our comment recognized this likely interpretation and questioned this principle by pointing out that governmental intervention was not likely to be in the interest of consumers and that the principle would very probably be used as a basis for protectionism.

Our participation in the development of the guidelines thus far has been on the basis that discussions were one alternative approach which might lead to greater understanding of the need for consumer protection, the goals, and (most importantly) the problems which will be encountered. The U.S. is not committed to the drafting of the guidelines or their eventual passage; our comments were offered with the intention of pointing out the problems which would be encountered in attempting to create a "code" which covered all concerns, in both general and specific terms, was acceptable to all, and relevant to all countries. At best, this would be an extremely difficult task -- probably impossible if all countries were actually to agree on the basis that they were to implement all parts of the guidelines.

Accordingly, while parts of the draft guidelines seem antithetical to our free market system, our discussion of the guidelines is an effort to change them to be fully consistent with our principles.

Q: Guideline 2.d. calls upon producers of goods to ensure availability of reliable after sales service. In our economy, after sales service may be provided by a wide variety of entrepreneurs, few of whom may themselves be "producers." If a country refused to allow importation of a U.S. product because a manufacturer had not established an after sales service mechanism, would this be considered a non-tariff trade barrier or an act sanctioned by the United Nations?

A: Import restrictions based on the lack of a producer-provided sales service mechanism would be considered a non-tariff trade barrier.

Q: Guideline 7.e. calls upon governments to "especially" regulate the processing, distribution, and marketing of highly refined and expensive food products. Article 11 of the International Covenant on Economic, Social and Cultural Rights already addresses such issues. In addition, the FAO/WHO Codex Alimentarius Commission develops international food standards. Why do we need consumer protection guidelines on food, some of which conflict with the Codex Commission and the International Covenant?

A: Guideline 7(e) apparently stems from the types of concerns which led to the WHO Infant Formula Code. While these concerns may be valid in some cases, the remedy presented in this guideline is not appropriate. Our comment pointed out that "Section (e) under this heading is a highly pointed attempt to intervene in consumer choice. Highly processed and expensive food products are not necessarily or even inherently dangerous and need not be subject to special regulation...The reference to highly refined and expensive food products is inappropriate and represents a subjective value judgment with which not all consumers will agree."

The U.S. actively participates in the Codex Alimentarius development of food standards and supports its voluntary Code of Ethics for international trade in food. There is no need for guidelines on food which conflict with accepted standards, such as the Codex Alimentarius, developed by experts and with the full participation of interested groups. Moreover, Codex provisions do not necessarily cover such basic concepts as a recommendation to develop or strengthen food quality control systems, such as our own Food Safety and Inspection Service. We understand, however, that the FAO and WHO, in collaboration with the UN Environment Program, have developed "Guidelines for Developing an Effective National Food Control System." These were developed in support of the Codex Alimentarius and other programs.

Article 11 of the International Covenant on Economic, Social and Cultural Rights (which the U.S. has not ratified) recognizes the "right" of everyone to an "adequate standard of living...including adequate food..." It further urges members to improve methods of production, conservation and distribution of food, the same general topics as the section of the Guidelines dealing with food. The guidelines are somewhat more specific than is Article 11; they are certainly deficient in their failure to sufficiently emphasize the role of the private sector in providing and distributing food supplies.

CLOSING REMARKS

Senator **Laxalt**. Any more questions, gentlemen?

Mr. Secretary, and everybody else, we thank you. It has been a very productive session. We look forward to working with you in the future.

Secretary **Shultz**. I look forward to it.

Let me say that I know I speak for all of the people in the Department in stating my appreciation for your interest in the Department's activities, and in particular this morning for your very strong encouragement to leave no stone unturned in our efforts to see how we can provide for the security of our people who serve abroad.

Senator **Laxalt**. Thank you very much, Mr. Secretary.

PREPARED STATEMENT OF MR. VAN GORKOM

It is unfortunate that Mr. Van Gorkom cannot be here today. However, his statement will be included in the hearing record.

[The statement follows:]

PREPARED STATEMENT OF JEROME W. VAN GORKOM
UNDER SECRETARY FOR MANAGEMENT
DEPARTMENT OF STATE

Mr. Chairman and Members of the Committee:

It is indeed a pleasure to appear before you to present the Department of State's request for 1983 supplemental appropriations and the budget for 1984. The requested appropriations are essential to attain our foreign policy objectives and represent our best judgments regarding the most prudent use of resources. As the Secretary said earlier this morning before this committee, "Our success in the world depends on our willingness to allocate the resources necessary to support a foreign policy worthy of our traditions and the role we must play in today's world."

The Department fully appreciates the need for fiscal constraint -- and it has done and will continue to do its part. We firmly believe, however, that budget decisions cannot be made in a policy vacuum; this is particularly so as the Department plays a key role in developing and implementing the policies essential to our national security.

In recognizing the vital role of foreign policy and diplomacy in preservation of our national security, the President is seeking much needed increases in support for the Department in 1984. This request is principally to continue operations of the Department of State at existing levels as well as providing limited growth in vital substantive areas.

Total Budget Request

For 1984, the Department is requesting appropriations totaling $2,106,963,000. This represents an increase of $225,344,000 and 308 positions over 1983 appropriations to date, after including proposed supplementals.

About 54% of the total increase for 1984 over 1983 is needed to continue operations at 1983 levels. This increase is needed to keep pace with higher wages and prices overseas where inflation is often higher than here in the United States. It is also needed to meet workload increases for passport and consular activities and to continue overseas administrative support to other agencies.

The remaining 46% of the total increase is for program increases to overcome operational deficiencies and to strengthen several programs of crucial importance to our global capability. Making these necessary investments will enhance the effective conduct of foreign affairs and avoid increased costs of such investments in the future. Specifically, we need to:

-- Build on our past efforts to strengthen reporting and analysis of foreign political and economic events.

-- Improve the security and reliability of the Department's telecommunications systems.

-- Provide new office and housing facilities where needed and restore the condition of existing overseas property. Maintenance activities have been seriously neglected and renewal of our existing capital investment is both cost effective and of high priority.

-- Meet increased demands for continued security of life and property, particularly in Europe.

-- Expand the Department's global information processing capability to meet increased workload demands and to improve our management efficiency.

1983 Supplemental Appropriations

The supplemental appropriations proposed for 1983 totalling $26.6 million are for unbudgeted needs in the following areas:

-- $21.9 million associated with the October 1982 Federal salary increase and December 1982 lifting of the executive pay cap. Of this increase, $8.1 million will be transferred from the Contributions to International Organizations appropriation.

-- $4.7 million to finance the unfunded liability in the Payment to the Foreign Service Retirement and Disability Fund, resulting from the recent Federal salary increase.

Major Components of the 1984 Request

After including these proposed supplementals, our 1984 request, as I indicated, reflects a net increase of $225,344,000 and 308 positions over 1983.

The changes in our 1984 request compared to 1983 are reflected in four areas:

First, in the Salaries and Expenses appropriation, there is a net increase of $143.3 million. This increase is requested primarily to cover non-controllable overseas wage and price inflation, workload increases, built-in security cost increases and selective improvements in the quality of the Department's operations in the areas of post openings, reporting and analysis, consular activities, professional development, security, information systems, communications, and administrative support. I will discuss the changes in this appropriation in more detail in a few moments.

Second, the regular Foreign Buildings appropriation includes a net increase of $9.8 million which can essentially be attributed to the first installment in a multi-year capital renewal program to maintain the Department's world-wide inventory of property roughly valued at above $5 billion. Also included in the basic program level of this appropriation are resources to complete the second phase of the complex in Riyadh, Saudi Arabia; to fund development or construction of office and housing facilities in sixteen countries; and to cover operational requirements. The Capital Renewal program estimates are based upon post-reported funds requirements for minor improvements, building operating expenses and preventative maintenance in our properties around the world.

Third, there is a net increase of $89.6 million in the Contributions to International Organizations appropriation which primarily reflects the return to full fiscal year funding of U.S. assessments to eleven international organizations after completion of the deferral process that encompassed the 1981 through 1983 budgets. This deferral process had the effect of charging fiscal year 1981 through 1983 each with less than a full year's contribution. Since the deferral program is now complete, the United States obligations to these eleven organizations for calendar year 1983 must be met in full from fiscal year 1984 funds, or we will be placed in immediate arrears.

Finally, a net decrease of $17.4 million in several other appropriations partially offsets these increases.

Position Request

Turning to staffing, the Department's most critical resource is people. The ability to function effectively and achieve our foreign policy objectives depends almost entirely on U.S. personnel. The Department's total 1984 request is for 16,589 positions, a net increase of 308 positions over 1983. Even with this increase, the Department will have 65 positions less than 1975 -- a decade ago.

Of the 308 positions increase, 61 positions are for built-in changes, almost entirely for consular and passport workload.

We are also requesting 247 positions for program increases:

-- 15 positions for opening three posts: Chengdu, Peoples' Republic of China; Bandar, Brunei; and Enugu, Nigeria;

-- 62 positions to strengthen the substantive reporting and analysis capability of the Department;

- -- 17 positions to improve consular and passport activities;
- -- 25 positions for expanded professional development;
- -- 40 positions for information systems;
- -- 34 positions for communications;
- -- 31 positions to strengthen administrative support to all agencies operating overseas; and
- -- 23 positions for security, inspecting, translating, and creating a new property management system for our facilities abroad.

The Salaries and Expenses Appropriation

Mr. Chairman, I would now like to discuss in more detail the Salaries and Expenses Appropriation, which provides the basic operating budget of the Department and comprises over one-half of our total appropriations request. About 49 percent of the Salaries and Expenses appropriation pays for the salaries, benefits, and allowances of our American and Foreign Service National employees. The remaining 51 percent is for operating expenses, such as: office space, housing, security, communications and administrative support necessary to conduct U.S. foreign policy.

The amount requested for Salaries and Expenses for fiscal year 1984 is $1,148.6 million, a net increase of $143.3 million over 1983 after including supplemental requirements. Of this net increase, $74.5 million or 52% is for built-in costs over which the Department has no control under existing law. The remaining $68.8 million or 48% of the increase is for program increases.

Let me first discuss the requested built-in increases. These fall primarily into four categories -- wage, price, workload, and other built-in increases -- and are partially offset by a decrease of $19.5 million for nonrecurring costs, primarily for the security program, the Economic Summit, multi-year leases, and an extra day's pay.

In this context, I would like to emphasize that the additional net amount of $74.5 million and 61 positions are required to maintain the current levels of our domestic and overseas operations. It is essential that these funds be provided. To do otherwise would dangerously undercut our ability to meet foreign policy objectives.

The budget request includes $16.8 million to cover additional salary costs for both American and Foreign Service National employees. For U.S. personnel, pay increases enacted in the past year must be funded. For Foreign Service National employees, the Department has a legal and diplomatic obligation to meet certain salary increases as well as a vital need to provide competitive compensation so that we can attract and retain high quality personnel.

For overseas and domestic price increases we are requesting $28.6 million. Inflationary forces are affecting every aspect of the Department's overseas operations, including transportation, communications, utilities, and contractual services. Consequently, we must budget amounts to ensure that we can meet these costs without having to reduce ongoing priority programs.

We also need $3.2 million to meet workload responsibilities assigned by law to provide timely U.S. citizen passport issuance and worldwide consular services which are expected to increase six percent in 1984. This workload increase is about evenly split between additional passports issued domestically and mounting non-immigrant visa requests abroad.

The remaining $45.4 million in the built-in increase category applies to such items as security program costs, increased payments to the General Services Administration for the rental and service of our building space, information systems, and communications.

We propose program increases of $68.8 million and 246 positions as investments to strengthen the effective conduct of foreign affairs:

-- $2.2 million and 15 positions for opening new posts in Chengdu, China; Bandar, Brunei; and Enugu, Nigeria.

-- $4.8 million and 62 positions are budgeted for strengthening political and economic reporting and analysis, at key posts abroad. This will continue a multi-year effort begun in 1980 with this Committee's assistance, which so far has made available 117 new positions to revitalize this critical foreign affairs function following a long period of resource reductions.

-- $1.8 million and 17 positions to increase productivity and accuracy in the consular function, primarily by strengthening automated support of passport processing and for anti-fraud activities.

-- $0.8 million and 25 positions, primarily to strengthen the Department's professional development training program for information systems managers.

-- $5.4 million and 2 positions for security equipment to protect American personnel and property, primarily in Europe.

-- $9.4 million and 40 positions for information systems managers to support and protect the Department's ADP systems world-wide.

  - establishing sorely needed systems for personnel transactions and our Foreign Service National payroll.

-- $35.4 million and 34 positions to improve the security and reliability of the Department's telecommunications systems through building an alternate communications center; replacing obsolete cryptographic equipment; providing mobile communications units for deployment in crises and during travel of the Secretary; establishing a global communications network control system; and accelerating our terminal equipment replacement program.

-- $1.7 million and 31 positions to strengthen the Department's administrative functions with an emphasis on underdeveloped countries, where administrative resources are insufficient to meet growing workload requirements.

-- $7.1 million and 20 positions, primarily for inspections, audits, translating, restoring the Department's aging overseas vehicle fleet, and consolidation of office space.

Finally, pursuant to the Congressional desire expressed in our 1983 authorization bill and, more recently, in the Second Continuing Resolution of last December, the Department plans to reopen seven consulates in Bremen, Brisbane, Goteborg, Mandalay, Nice, Salzburg, and Turin -- subject to host government final approval. Our objective is to reopen these posts in August or September on a minimal staffing basis.

The appropriation request before you carefully balances resource requirements with foreign policy objectives. Even within the present stringent budgetary environment, we have made every effort to assure that sufficient resources are available for the United States to continue its pre-eminent role in International Affairs.

Mr. Chairman, Roger Feldman, Comptroller of the Department, and Edward Grove, Acting Director of the Office of Budget and Planning, are with me today to address our overall appropriation requirements. We will try to respond to any questions you and members of the Committee may have.

ADDITIONAL QUESTIONS

Senator LAXALT. I have some additional questions, as does Senator Hollings, that I will submit for response in the record.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR LAXALT

Travel Document Issuance System (TDIS)

Question: The Department has proposed increases of about $1 million to expand the capacity and efficiency of the Travel Document Issuance System (TDIS). What specific actions are contemplated to expand the capacity and efficiency of the TDIS?

Answer: Unexpected sharp increases in passport demand required that all passport agencies be equipped with larger capacity double module TDIS computer systems. The original plan was to have a mixture of single and double module facilities. Double module systems require more equipment. This increase in hardware automatically increases the cost of mandatory contractor support. These increases in equipment and support must be paid for at current price levels which are higher than original estimates. Site renovation costs have averaged more than twice the original estimates.

The TDIS has undergone numerous enhancements to improve system effectiveness as follows:

- The Washington Passport Agency has been outfitted with larger computers to improve the system response time, and to provide a "back-up" site, for agencies experiencing unusually heavy workloads or equipment failures.

- The cashier function was moved to the front of the process as recommended by the Inspector General and the team tasked to review the cash handling procedures of the passport agencies. This necessitated the reconfiguration of the office space and inclusion of a final processing workstation which resulted in expensive software changes and additional hardware costs.

- Expensive software changes were made to accommodate the increase in passport fees that became effective January 1, 1983.

- Furniture engineered to reflect the interaction of human factors, hardware and work function (ergonomic) was required to replace other government furniture not specifically designed for use in a TDIS automated environment. The benefits of ergonomic furniture for the TDIS man-machine interface included: complaints about backaches, muscle strain, etc., have diminished; there has been an increase in employee morale and productivity, and there are significant recurring long-range savings due to reduced space requirements. Some agencies could not have remained in the same location without the space savings made possible through the use of well designed ergonomic furniture.

- The cashier function will be further enhanced by the incorporation of electronic cash registers (ECR). With the substantial increase in passport fees, the ECR's will provide a greatly enhanced level of internal security.

Question: Since the FY 1984 passport workload is expected to be around 4.2 million, why are these additional funds necessary when TDIS was originally designed to process 4 to 6 million passports annually?

Answer: The TDIS System is designed to produce a theoretical maximum of about 4,000,000 passports per year. For short periods of time and with full staffing adequately trained on TDIS, the system can produce unsustainable workload bursts on the order of 50% greater than the theoretical maximum during the peak travel season. In order to produce at the 50% higher rate extra shifts and increased staffing are required for that period of time. Of course, as in any production environment, TDIS experiences the usual equipment failures and employee absenteeism that detract from production output. Therefore, the theoretical maximum of about 4 million is the upper limit that can possibly be produced. Requirements of over 4 million passports per year will surely test the system.

Worldwide availability is mandated by the Foreign Service Act and domestic assignments are limited to 8 years and overseas assignments to 15 years.

Question: Has this established requirement for worldwide availability affected recruiting?

Answer: Infrequently, candidates will withdraw their applications for employment because of these requirements. However, the Department has not had significant recruiting problems.

Question: Have there been problems in attracting and retaining professionals in such specialized fields as security, computer systems, communications, engineering and so forth?

Answer: The Department has had no significant problems in attracting and retaining professionals in specialized fields

Status of Special Incentive Differential

Question: The Special Incentive Differential (SID) was authorized under the Foreign Service Act as a recruitment and retention incentive to attract members to serve at hardship posts.
Why has this incentive not been implemented?
How much is SID expected to cost if implemented?

Answer: There have been delays in implementing the Special Incentive Differential (SID) as a result of the need to reach a consensus among all interested parties as to how the allowance would be paid and who would be eligible to receive it. We believe that we have now worked out an acceptable formula for implementing the SID, although no final decision has been reached as to how many posts would be eligible for the allowance. The alternatives currently under serious consideration are to restrict SID to our 19 most difficult-to-staff posts, at a cost of $565,000 per year; or to make a total of 39 hardship posts eligible, at an annual cost of $1,265,000. These figures are for State only; adding other agencies would increase costs by approximately fifty per cent.

Advance Payment of Special Incentive Differential

Question: The Department of State is proposing an amendment to the Foreign Service Act of 1980 to pay SID in advance of departure to designated posts.

Is this true?

Why is this amendment necessary when the Department has yet to implement SID and has not evaluated its effects?

Answer: We had contemplated amending Title V of the 1980 Act to permit partial payment of SID in advance of departure to designated posts. One of our difficulties with implementation had to do with the timing of payments, and whether they should be in a lump sum prior to departure, to provide an enhanced incentive. However, following Executive Branch consultations it was decided not to proceed with such an amendment at this time, and to implement SID in a fashion consistent with existing law.

Cost of Proposed Amendments to the Foreign Service Act

Question: What are the cost estimates identified for the Department of State to implement the proposed amendments to the Foreign Service Act of 1980 dealing with on-call pay, home service transfer allowances, educational allowances and travel for children of separated parents?

Are the figures available on the costs of implementing these amendments in the other foreign affairs agencies?

Answer: The Administration proposals for amendments to the Foreign Service Act of 1980, recently introduced in the Senate by request by Senator Percy as S.1136, are estimated to have an annual State Department cost of no more than $500,000 a year. The package, as transmitted, does not include on-call pay which would have been the most costly item. The costs for home service transfer allowances, educational allowances and travel for children of separated parents are included in the $500,000 figure.

While detailed estimates for the other agencies have not yet been prepared, we estimate that in total for USIA, AID, FCS and FAS the cost of the proposed amendments would be not more than $250,000 per year.

Senior Foreign Service - Performance Pay

Question: Some problems have been experienced in implementing performance pay for the Senior Foreign Service. Is performance pay a worthwhile incentive for members of the Senior Foreign Service? Why?

Answer: Following the example of the Senior Executive Service, the 1980 Foreign Service Act replaced scheduled within grade salary increases with a system of additional pay based on performance. Although the numbers and amounts of performance pay have been limited, the Department has conferred annual awards during the first two years under the new system on 279 officers (20 percent of all those eligible) in amounts ranging from $4,000 up to 20 percent of base salary. These awards have provided visible recognition of the accomplishments and contributions of our most outstanding officers. Reaction has been strongly positive not simply among award recipients but throughout the Service. In our judgment, the knowledge that superior acknowledgment may entail tangible recognition is providing a positive incentive within the Senior Service.

Question: What have been the problems associated with implementing the performance pay provisions of the Foreign Service Act of 1980?

Answer: Implementation of the procedures for award of Department performance pay has been successfully completed with no insoluble problems. Conferral of Presidential Awards which requires interagency review of nominees from the foreign affairs agencies, has not been possible because of unresolved differences between USIA and its employee representative over agency nominations and interagency procedures. This protracted dispute, which may only be resolved in the courts, has so far blocked establishment of an agreed interagency Presidential Award process, although efforts are continuing to find a means of making these awards pending resolution of the labor dispute.

Question: How does State management view the USIA position that decisions governing performance pay awards should be made by management and should not be made on the basis of binding selection board recommendations?

Answer: The Department has intervened in the unfair labor practice complaint against USIA, which is before the Foreign Service Disputes Panel, in support of the USIA position that elements of the performance pay process are not negotiable under the 1980 Foreign Service Act. The Department also shares the view that flexibility in the administration of performance pay will help assure that these incentives are most effectively employed to enhance performance. The Department's primary concern is that any award system be discerning, equitable and solidly merit-based. Pending resolution of the fundamental legal issues in question, the Department has been able to work with the employee bargaining representative to establish interim award procedures on a no precedent basis. Appropriate long-term mechanisms must await resolution of the controlling legal questions.

Question: The Foreign Service Act was passed in October 1980. When are Presidential Senior Foreign Service Performance pay awards expected to be given?

Answer: The Department has nominated its candidates for Presidential awards in FY 1982 and FY 1983. The interagency award process could not be completed in FY 1982 because the procedures adopted would have raised serious questions about the legality of any Presidential awards conferred in the face of USIA's continuing labor dispute over agency nominations and interagency review. Similar interagency arrangements for FY 1983 have been under negotiation for a number of months but show no prospect of early agreement. The Department is exploring with the other agencies the possibilities of interim arrangements which might be adopted for FY 1983 pending resolution of the legal and negotiating differences which have blocked the longer-term process. It is not yet possible to say whether interim arrangements may prove feasible. In the absence of such interim procedures, the conferral of Presidential awards will probably have to await resolution in the courts of the USIA labor dispute which is not expected before 1984.

Foreign Service Act Implementation

Question: Will the transition period implementing the Foreign Service Act of 1980 be completed by February 14, 1984, as mandated?

Answer: The transition period referred to is that contained in Chapter 1 of Title II of the Act which provides a three-year period after the effective date of the Act for conversion of individuals from an old category to a new one. It does not pertain to other aspects of the Act, and in the case of USIA, it provides that the transition period for conversion from the Foreign Service expires on June 30, 1984 rather than February 14, 1984.

As we reported to the Congress in February in our annual report on implementation of the Act (required by Section 2402), conversions of individuals are essentially complete except for those individuals exercising the option provided by law to defer conversion of the three-year period.

Almost all conversions to the Senior Foreign Service have taken place. There are approximately fifty individuals among the agencies who have opted not to join the Senior Foreign Service and who either must do so or be separated before February 15, 1984. All others in the worldwide category below the senior levels have already been converted to the new categories and pay schedule. Finally, those in the domestic category who have not done so voluntarily will be converted to the Civil Service effective February 15, 1984 for State and all other agencies except USIA, and July 1, 1984 for the latter. This is required in Section 2104 of the Act.

More generally, we expect to have completed other aspects of implementation of the Act by February 1984, with the possible exception of certain regulations which are extremely complicated and which, in addition, require negotiations among five agencies and three employee representative organizations. Virtually all of the major regulations, however, should be in place by that time.

Court Decisions on Foreign Service Act Implementation

Question: When does the Department plan to codify the decisions of the District Court (AFSA vs. Haig and Meresman vs. Haig) regarding the Foreign Service Act of 1980?

Answer: The Department and the other foreign affairs agencies have already taken the action we believe is necessary to implement AFSA vs. Haig and Meresman vs. Haig decisions. Both decisions relate to aspects of conversion from the former categories to the Senior Foreign Service, and as such, are transitional features rather than than permanent legislation. Thus, in our judgment, they do not require codification.

The Meresman decision concluded that senior officers electing not to request conversion to the Senior Foreign Service, and therefore required to leave the Service on February 15, 1984, should be considered as to be subject to mandatory retirement and therefore eligible for an immediate annuity. The Department, after weighing closely the considerations involved, elected not to appeal the decision of the District Court. We will honor the Court's decision on February 15, 1984, when members of the class involved are required to leave the Foreign Service.

The AFSA vs. Haig decision held that scheduled rates of pay and not only payable rates must be protected upon conversion to the new Senior Foreign Service pay schedules. There was no operational effect of this decision between the time it was rendered in December 1981 and the lifting of the pay cap in December 1982, since all senior officers were paid at the same rate. After that time, however, in certain cases it would have been possible to receive a higher pay rate under the old protected schedule than under the new level to which certain officers in the new minister-counselor class were assigned. Therefore, in order to meet the terms of the Court's decision, pay for these officers was adjusted to the highest permissible rate under the new statutory language, that is $67,200.

Selection Criteria For Foreign Service Personnel Assignments

Question: What is the Department's criteria for selection of Foreign Service personnal as (1) Deputy Chiefs of Mission (2) political/economic officers (3) Consul General/counselor officers (4) and administrative officers?

Answer: Assignments to all overseas Foreign Service positions are made through the Department of State open assignments procedure. This is essentially a procedure whereby all position vacancies are advertised by periodic world-wide cables to all eligible Foreign Service personnel. Eligible personnel submit a list of bids on the position which he or she prefers.

The fundamental criteria for selection of a Foreign Service officer to a political, economic, consular or administrative position are the following:

(a) The quality of the officer's record;

(b) The officer's competence in the geographic area;

(c) The officer's competence in the required functional area (i.e., political, economic, consular, and administrative);

(d) The needs of the Foreign Service;

(e) The particular requirements of the position; and

(f) The officer's language competence.

In addition to these basic criteria, other factors are taken into account. These include (1) EEO considerations; (2) preference of the officer; (3) family considerations; (4) Foreign Service rank; (5) career development considerations; and (6) equity.

In the case of Deputy Chief of Mission, it is the prerogative of the Ambassador to select the Foreign Service Officer of his or her own preference to fill this position keeping in mind the above criteria.

Additional Subsistence Payments

Question: The State Department is proposing an amendment to the Foreign Service Act to extend authorization for additional subsistence payments to Foreign Service officers in AID and USIA who provide security to foreign dignitaries and who are in travel status in excess of ninety days. What has been the State Department's cost for this provision since the Foreign Service Act of 1980 became effective?

Answer: Since the Foreign Service Act of 1980 became effective, the total subsistence costs (including additional subsistence payments) of providing security to foreign dignitaries have been $125,000 annually, and additional subsistence payments to individuals in long term travel status has been about $20,000 per year.

Question: Under what circumstances has the Department used this provision?

Answer: Regarding protection of foreign dignitaries, the Department has used this provision for all protective missions authorized and, concerning long term travel, the Department has primarily used this provision for staff of the Inspector General in long term travel status.

Question: How much is this provision expected to cost if it is extended to AID and USIA?

Answer: If extended to USIA and AID, it is expected that this provision would cost these two agencies together approximately one-half of the State amounts annually for both protective security and long term travel.

EMERGENCIES APPROPRIATION

Question: A GAO AUDIT OF THE EMERGENCIES ACCOUNT INDICATED SOME MINOR DIFFERENCES BETWEEN THE GAO AND THE DEPARTMENT IN ALLOWABLE EXPENDITURES. PLEASE DEFINE FOR THE COMMITTEE THE PRINCIPAL USERS OF THIS ACCOUNT.

Answer The major categories of expenditures of the account are listed below:

Emergency Evacuation - evacuation of U.S. Government employees and their dependents and private U.S. citizens when their lives are endangered by war, civil unrest or natural disaster. (Other U.S. Government agencies reimburse the Department to cover expenses incurred on their behalf. Private U.S. citizens sign promissory notes to repay the cost of their evacuation. Repayment made during the fiscal year in which the expenditures were made are used to defray expenses incurred. Repayments received following the close of the fiscal year revert to the U.S. Treasury.)

Relief and Repatriation Loans - loans to destitute citizens abroad. Loans are made to U.S. citizens to provide for their return to the United States. Promissory notes are obtained. Funds collected are deposited to Miscellaneous Receipts of the Treasury.

Visits by Foreign Chiefs of State or Heads of Government - expenses incurred in connection with official visits to the President (State dinners, receiptions, other food, loding and travel expenses within the United States).

Presidential Delegations to Foreign Inaugurations, Funerals, etc. - travel expense of the official U.S. delegations.

Presidential, Vice-Presidential and Congressional Travel Abroad - expenses incurred in connection with official travel to foreign countries including advance arrangements, excorts and official entertainment.

Secretary of State Travel - expenses incurred by the Secretary in connection with travel in the U.S. and abroad including official entertainment.

Domestic Representation and Entertainment - expenses incurred by the Secretary and other principal officers in connection with official representational functions.

Special Overseas Representation - expenses incurred for official functions not covered by the Representation Allowance appropriation, e.g., American business representatives and Congressional delegations when the majority of the guests are not foreigners.

Passport and Visa Fraud - expenses incurred in connection with investigations and apprehension of groups or individuals involved in fraudulent issuance of U.S. passports and visas.

Official Gifts to Foreign Dignitaries - cost of gifts of nominal value given by the President, Vice- President or the Secretary of State.

Question THE DEPARTMENT BELIEVES THERE HAS BEEN SATISFACTORY OVERSIGHT ON THIS ACCOUNT BOTH WITHIN THE DEPARTMENT AND THE CONGRESS. IS THIS CORRECT?

Answer Oversight of this account is continually done through the authorization and appropriation process of the Congress. Both authorization and appropriation committees are provided with information on this account as requested.

Included in the authorization legislation for the Department this year is specific language that codifies existing criteria used by the Department into specific law.

Question: IT IS OUR UNDERSTANDING THAT ALL EXPENDITURES ARE VOUCHERED AND EXAMINED IN THE SAME MANNER AS ALL OTHER APPROPRIATIONS. IS THAT CORRECT?

Answer As the Department has testified before the expenditures from this appropriation are certified by the Secretary of State and are vouchered and recorded in the same manner as expenditures from other Government accounts.

Question: PROVIDE THE COMMITTEE THE CRITERIA THAT ESTABLISHES AND SAFEGUARDS EXPENDITURES FROM THIS ACCOUNT

Answer The Department has used the general authority as expenditure criteria 22 U.S.C. S 2671 which provides that:

> "THE SECRETARY OF STATE IS AUTHORIZED TO --
> (a) MAKE EXPENDITURES, FROM SUCH AMOUNTS AS MAY BE SPECIFICALLY APPROPRIATED THEREFORE, FOR UNFORSEEN EMERGENCIES ARISING IN THE DIPLOMATIC AND CONSULAR SERVICE...."

The traditional category of expenditures are not necessarily exclusive and from analysis of these categories, which have been sanctioned by Congressional oversight, the Department has derived certain principles from which the Department has concluded that the expenditures are authorized by law from the account which, in the opinion of the Secretary of State --

1) serve to further the realization of foreign policy objectives of the United State,and

2) are a matter of urgency to implement, and

3) as to such expenditures as are accounted for by certification, the best interests of the conduct of foreign policy of the United States require confidentiality, and

4) are not otherwise prohibited by law.

Criteria governing the expenditures and confidentiality of these expenditures has been included in the Senate Authorization Bill for the Department. It codifies in law the criteria and safeguards presently used by the Department. That language follows:

EMERGENCY EXPENDITURES

SEC. 109. (a) Section 4 of the State Department Basic Authorizes Act of 1956 is amended ----

(1) by redesignating paragraphs (a) and (b) as paragraphs (1) and (2);
(2) by inserting "(a)" after "SEC. 4,";
(3) by inserting "subject to subsection (b)," before "make expenditures" in subsection (a) (1), as redesignated by paragraphs (1) and (2) of this section; and
(4) by adding at the end thereof the following subsection:

(b)(1) Expenditures described under subsection (a) shall be made only for such activities as -------

"(A) serve to further the realization of foreign policy objectives;
"(B) are a matter of urgency to implement;
"(C) with respect to activities the expenditures for which are required to be certified under subsection (a), require confidentiality in the best interests of the conduct of foreign policy by the United States; and
"(D) are not otherwise prohibited by law.

"(2) the evacuation of United States Government employees and their dependents and private United States citizens when their lives are endangered by war, civil unrest or natural disaster;

"(B) loans made to destitute citizens of the United States who are outside the United States and made to provide the return to the United States of its citizens;

"(C) visits by foreign chiefs of state or heads of government to the United States;

"(D) travel of delegations representating the President at any inauguration or funeral of a foreign dignitary;

"(E) travel of the President, Vice President, or Member of Congress to a foreign country, including advance arrangements, escort, and official entertainment;

"(F) travel of the Secretary of State within the United States and outside the United States, including official entertainment.

"(G) official representational functions of the Secretary of of State and other principal officers of the Department of State;

"(H) official functions outside the United States the expenses for which are not otherwise covered by amounts appropriated for representation allowances;

"(I) investigations and apprehension of groups or individuals involved in fraudulent issuance of United States passports and visas; and

"(J) gifts of nominal value given by the President, Vice-President or Secretary of State to a foreign dignitary.

"(c) The Inspector General of the Department of State shall conduct an annual confidential audit of the Department of State's emergency expenditures expenditures and prepare and transmit to the to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate an annual report indicating whether such expenditures were made in accordance with the intent of subsections (a) and (b) of this section.

"(d) With regard to the repatriation loan program, the State Department shall --

"(1) require the borrower to provide a verifiable address and social security number at the time of application;

"(2) require a written loan agreement which includes a repayment schedule;

"(3) bar passports from being issued or renewed for those currently in default.

"(4) refer any loan more than one year past due to the Department of Justice for litigation;

"(5) obtain addresses from the Internal Revenue Service for all delinquent accounts which have social security numbers;

"(6) report defaults to commercial credit bureaus as provided in Public Law 97-365;

"(7) be permitted to use any funds necessary to contract with commercial collection agencies, notwithstanding section 13(1)(3) of Public Law 97-365;

"(8) charge interest on all loans as of May 1, 1983. The rate of interest to be charged shall be as set forth in section 11(e)(1) of Public Law 97-365;

"(9) assess charges, in addition to the interest provided for in paragraph (8), to cover the costs of processing and handling delinquent claims, as of May 1, 1983;

"(10) assess a penalty charge, in addition to the interest provided for in paragraphs (8) and (9) of 6 per centum per annum, for failure to pay any portion of a debt more than ninety days past due; and

"(11) implement the interest and penalty provisions in parts (8), (9) and (10) for all current and future loans, regardless of whether the debts were incurred before or after May 1, 1983.".

QUESTIONS SUBMITTED BY SENATOR HOLLINGS

Q: The recent talks between King Hussein and Yasser Arafat on the fate of the Palestinians seem to have dealt the Mid-East peace initiative a serious blow. In view of our commitment to peace, what are we doing to get the talks back on track?

A: While the break-down of the Hussein-Arafat dialogue was a setback, King Hussein of Jordan, King Fahd of Saudi Arabia, King Hassan of Morocco, President Mubarak of Egypt and other Arab leaders have assured us of their determination to find a way to broaden the peace process in the light of the President's September 1 initiative. We understand PLO leader Arafat also has indicated that the door to continued talks with Hussein remains open. While we expect key moderate leaders in the Arab world to take the lead in galvanizing the support necessary for Hussein to consider entering negotiations, we will remain active in stimulating the positive responses that will permit renewed progress.

Q: Sending posses into foreign lands in support of our foreign policy objectives can, as we know, result in great human and financial cost to us. There is a deep concern over bringing our Marines home from Lebanon. What are the Administration's plans in this regard, and how are they affected by the recent terrorist attack on the United States Embassy in Beirut?

A: The U.S. Marine contingent to the Multinational Force (MNF) is in Beirut, Lebanon for a limited period of time to assist the Government of Lebanon in reasserting its authority and control. The U.S. MNF contingent will remain as long as it is needed. Isolated terrorist attacks, such as the tragic bombing of the U.S. Embassy on April 18, will not affect U.S. resolve to maintain this essential U.S. commitment to the restoration of peace, stability, and security in Lebanon.

Q. Press reports on your talks with Mexican officials earlier this week indicate that the two administrations have, in effect, agreed to disagree on Central America. Would you tell us what you have learned of Mexico's position on this issue? What will Mexico's Foreign Secretary Sepulveda propose at the regional foreign ministers' meeting in Panama this week? What part of the Mexican recommendations, if any, would we be willing to support?

A. Our conversations in Mexico City demonstrated substantial agreement with regard to certain aspects of the situation in Central America. We and the Mexican Government agree that it is important to avoid escalation of the armed conflict. We both support the nations of Central America in their search for a way to end their costly arms race. We share the goals of peace and economic development for the region. We also had a helpful exchange of views on how we might work together to reduce current conflicts within and among the countries of Central America. Mexico believes that direct bilateral contacts among the nations most affected would be an important contribution toward this goal. We reiterated our preference for a more comprehensive, multilateral approach, which would involve all the directly affected states and would include respect for basic human rights and democratization. We will continue to consult with Mexico on events in Central America and on all sincere proposals to reduce regional tensions.

Q: On the basis of the recent trip to Mexico, what, in your view, are the prospects for a Mexican recovery from the current economic crisis and what role does the Administration anticipate it will play in the coming months should further assistance be needed?

A: Mexico will have a difficult year, but if it continues to adhere to the IMF stabilization program, prospects are quite good for economic recovery. Although only preliminary economic statistics are available, the Mexicans appear to be in compliance with the targets established in their IMF program.

We feel that the critical task for the Mexican government is to get the economy moving again. We believe that this can be done through the IMF program and commitment to sound economic policy. With regard to continued cooperation in the financial area, the United States Government and the Mexican Finance Ministry will maintain close and continuing contact. We plan to continue working with our Mexican counterparts with the goal of encouraging them to follow sound economic policy that would lead to restored growth of the Mexican economy.

Q. On a similar note, what is the outlook for Venezuela to pay the large foreign debt payments due in 1983?

A. Venezuela's external public debt is $26.7 billion, of which approximately $13 billion matures in 1983. Total Venezuelan reserves are reported to be $12.4 billion. In late March, the Venezuelan government announced a moratorium on the repayment of principal on public sector debt owed to commercial banks until July 1. It is currently negotiating with international creditors to reschedule that portion of the debt still remaining due this year, reportedly about $9 billion. Venezuela has taken several steps toward stemming capital outflows, improving its reserve position, and restoring confidence of the banking sector. These include imposition of a three-tiered exchange rate, restriction of imports, price controls, and budget cuts. The Venezuelan government has had recent extensive consultations with the International Monetary Fund, but has not yet requested a standby arrangement.

Q. Our highly publicized covert activities supporting anti-Sandinista guerrillas heightens the danger of an escalation and internationalization of the conflict in Nicaragua, with the eventual possibility of direct Cuban military involvement. The National Security Memorandum leaked to the newspapers recently indicated that this possibility was clearly foreseen as an outcome of our policy. What have the Soviet and Cuban responses been to our warnings against their involvement in the Nicaraguan conflict?

A. First, I would like to state that the United States, as a matter of longstanding policy, does not confirm or deny allegations or intelligence operations or the authenticity of allegedly leaked documents. We also do not comment on the substance of diplomatic exchanges.

While a possibility exists that the Soviet Union or Cuba might introduce combat troops or advanced weapons systems in Central America in the foreseeable future, we have no current evidence they plan to do so. However, precisely because such action would imperil the security of all American nations, we have communicated to Moscow and Havana how dangerous such actions would be. The Soviet Union and Cuba fully understand our position.

Q. What will be our response if Soviet MIGs or Cuban troops are introduced into Nicaragua?

A. There are already about 2,000 Cuban advisers and 150 Soviet bloc advisers in the Sandinista Army and security forces. The introduction of Soviet MIGs into Nicaragua would, of course, further increase the strength of the Nicaraguan armed forces relative to the armed forces of its neighbors. Modern MIGs would outclass Honduras' aging Super Mysteres. The introduction of Cuban combat troops in Nicaragua would be even more serious. Both scenarios would produce a dangerous situation in which the security of neighboring countries would be seriously threatened. We have informed Cuba and the Soviet Union of our position; at this time it would not be appropriate to make public the specific steps we would take if such a dangerous situation were allowed to take place.

Q. Why are we not investing our energies in exploring less confrontational and less dangerous strategies?

A. Our Central American policy focuses on supporting regional dialogue among the Central American countries and on the peaceful resolution of their problems. The October 1982 San Jose Declaration, signed by Costa Rica, Honduras, El Salvador, Jamaica, the Dominican Republic, Belize, Colombia, and the United States, calls for verifiable limits on arms purchases and foreign military advisers in the region. We hope Nicaragua will address these and other issues contained in that declaration in discussions with its neighbors. While we provide military assistance to our friends in the region, our economic assistance is about three times as great as our military assistance. We support political dialogue, based upon respect for democratic principles, within and between the Central American countries. We do not seek confrontation, but neither will we allow the threat of confrontation by others to intimidate us and to weaken our resolve to stand by and support our friends in Central America.

Q. This Administration's policy toward El Salvador centers on a military victory by the Salvadoran Government. That policy is not working despite our continued and sizable support for this effort. What are the Administration's alternatives to the present impasse? Why will it not agree to discussion among all parties without preconditions, as a way of finding a peaceful solution to the conflict?

A. Our policy toward El Salvador and Central America has never emphasized a military victory. We recognize that the root causes of El Salvador's problems will not be removed by force of arms, whether by the government or by the guerrillas. True reconciliation must include a political approach, in which the people of El Salvador can express themselves, and a reform of the society. In this regard, the government has undertaken a significant effort to reform itself.

Agrarian reform now includes over one-half million previously landless Salvadorans. Well over a million Salvadorans expressed their desire for peaceful change through the electoral process by casting their ballots in last year's elections. A new constitution will guide the country toward presidential elections before the end of this year. The government is preparing an amnesty plan for all guerrillas willing to lay down their weapons.

Any formula for talks which would treat as equals those who have earned a place at the negotiating table through the democratic process and those who forced their way to the table by perpetrating a civil war and whose aim is to grab power behind the backs of their own people is inherently wrong. The United States, given its own history, would be untrue to itself if it supported such anti-democratic alternatives.

Q. Elections for the Constituent Assembly of El Salvador in March 1983 did not result in cessation of conflict. Since there has been no significant change in the situation in El Salvador, is there any reason to expect that moving the general elections up from March 1984 to December 1983 will improve the chances for a peaceful settlement?

A. The road to a lasting peace is through the electoral process. The vicious cycle of violence, which we all recognize exists, cannot be broken if we allow the guerrillas to shoot their way into power, since the violent tactics of the extremes of both the right and left would be legitimized by negotiations over power-sharing. The best way to break it is to find a mechanism which does not reward it, does not carve up power behind the backs of the people, but rather gives them a say in how they are to be governed. We want to see elections succeed, and we support President Magana and his Peace Commission in their efforts to assure that the elections enjoy full and peaceful participation by all elements in El Salvador's society.

The Government of El Salvador will soon unveil its elections plan. We expect that built into the strategy will be a willingness to engage in dialogue with the armed left over their entry into the elections in a manner which will address their concerns about personal security and access to the voters and the media. Of course, we firmly support this approach.

Q: The military and covert actions focus of the Administration's policies toward Central America appear to be creating a self-fulfilling prophesy whereby our direct involvement and a major international confrontation become requirements for a resolution. What is the basis of the Administration's resistance to looking at alternative strategies for achieving peace in the area?

A: The focus of the Administration's policies is not "military and covert actions" but -- as the President reiterated in his address to the Congress -- democratization, economic development and diplomatic dialogue. Security assistance is secondary to and supportive of these three. The strategy we are pursuing, developed in close consultation with the democratic countries of the area, is in fact designed to avoid greater involvement by the United States and prevent a major international confrontation in Central America.

None of the frequently mentioned alternative strategies would work effectively toward the overall goal on which we all agree -- a durable, humane and prosperous peace in Central America. In El Salvador, power-sharing negotiations equating an elected government with the discredited guerrilla movement committed to its overthrow would lead to a collapse of the democratic center, greater polarization, and an increase in violence and bloodshed. An approach to internal reconciliation -- anywhere in Central

America -- in ways other than through a legitimate democratic process (i.e., one based on pluralism and elections open to wide participation) would be not only an unwarranted imposition but, as history has demonstrated, an illusory, temporary solution.

Similarly, we prefer the strategy of comprehensive multilateral negotiations -- as called for by the eight democratic countries which met in San Jose last October and now being pursued by the Central Americans and the 'Contadora Four.' A move backward to the alternative of narrow, bilateral meetings designed to avoid key problems affecting the peace in the region would delay a resolution in which all of the countries affected, including the United States, could have reasonable confidence.

Finally, no better alternative has been suggested to replace the current mix of bilateral assistance to the countries of Central America: over three-quarters of the total for economic aid, the remaining less than one-quarter for security assistance.

In summary, we resist the various alternatives to our Central American strategy because, rather than integrated plans designed to achieve agreed objectives, they are essentially formulas for unilateral disengagement -- without due regard for the moral and practical implications of such a step.

Q: Lech Walesa has been subjected to increasing harassment and surveillance and there are serious indications that May Day may become the occasion of a confrontation between the workers and the government. What response is the Administration considering should this occur? What are our options?

A: While we have no indication at present that a major confrontation will occur between workers and the government, the Department will be closely watching events in Poland this Sunday. I do not think we should get into a possible USG response to hypothetical developments at this time. We, of course, support the right of peaceful assembly and have repeatedly called for the restoration of the human rights in Poland and for a policy of reconciliation in that country.

Q: The Japanese government recently announced that it is changing some seventeen laws concerning the standards and certification procedures it applies to products from other countries. Do you have reason to believe that these changes will indeed be carried out and not ignored by Japanese trade officials at the working level? And can you tell us when Japan intends to live up fully to the new GATT Standards Code and change its standards regarding products not covered by these recent changes?

A: We are greatly encouraged with the completeness and rapidity with which the GOJ completed the review of its standards and certification procedures. It is now important that the needed legislative changes be enacted in this session of the Diet. We believe that these changes, when enacted, will be a major step in bringing Japanese standards and certification procedures into line with Japan's obligations under the GATT. We will be continuing consultations with the Government of Japan on remaining standards problems and the effective implementation of the changes.

Q. Mr. Secretary, what is the status of our relations with the Government of Iran?

A. Since April 1980 we have been represented in Tehran by the Swiss and the Iranians in Washington by the Algerians. The United States Interests Section of the Swiss Embassy in Tehran is staffed by Swiss officials. The Iranian Interests Section of the Algerian Embassy in Washington is staffed by United States citizens and Resident Aliens supervised by an Algerian diplomat.

Q: What is the status of American claims for property in Iran as well as Iranian claims of their property in the United States?

A: More than 3,700 claims are currently pending before the Iran-United States Claims Tribunal in The Hague. The Tribunal, established pursuant to the January 1981 Algiers Accords which led to the release of the American hostages in Tehran, is charged with arbitrating claims of U.S. nationals against Iran, and of Iranian nationals against the U.S., which arise out of debt, contract, expropriation or other measures affecting property rights. The Tribunal also has jurisdiction over certain bank claims as well as disputes between the two Governments.

To date, the Tribunal has rendered 38 final awards, including 26 in favor of U.S. claimants, for a total recovery of nearly $41 million. Although a few claims have been brought by Iran and Iranian nationals with respect to property in the United States, the Tribunal has not yet adjudicated any of them.

With such a large caseload, it can be expected that the Tribunal will require a number of years to complete the task. The Department is working with the Tribunal, and the claimants, to ensure that the claims of U.S. nationals are adjudicated as expeditiously as possible. The pace of Tribunal awards has accelerated markedly over the past few months, and we anticipate that the number of American claimants obtaining relief will continue to increase accordingly.

Q - This Administration has recently tightened its restrictions affecting government employees as a means of improving national security. Is the President also considering mandatory registration of government typewriters assigned to federal employees, following the example of the Romanian government, which seems motivated by similar concerns?

A - No, there is no such action in the offing.

Salaries and Expenses

Foreign National Salary Increases

Question: On page M 10 of his budget message for Fiscal 1984, President Reagan proposed " A 1-year freeze on a broad range of domestic spending programs, and for Federal civilian and Military pay and pension programs." In view of the President's overall policy, why is the Department requesting $5,035,000 for wage increases for Foreign Service National employees?

Answer: These increases are necessary so that the U.S. Government can recruit and retain the high quality Foreign National employees needed to meet our objectives overseas. Foreign Service national wage increases are authorized in accordance with the Foreign Act of 1980. These increases permit the United States to maintain compatability with prevailing local wage scales. Also, overseas wage increases in many cases are mandated by across-the-board local government wage decrees.

Question: How does the Department justify compensating Foreign Service Nationals for inflation, while at the same time making American civilian and military personnel absorb the increased cost of living in these highly inflationary areas.

Answer: The Department provides post allowances to employees stationed overseas where the cost of living is substantially higher than in Washington D.C. The post allowance is a balancing factor designed to permit employees to spend the same portion of their basic compensation for current living as they would in Washington D.C. This allowance is usually updated on an annual basis to reflect changing overseas inflation differentials.

New Posts

Question: Again, in view of the President's determination to freeze domestic programs, why is the Department proposing to open three new posts?

Answer: It was the President's determination that, for reasons described in detail in the answer to the next question, American interests would be well served by opening these three posts in FY 1984. However, the size and configuration of the posts (and the resources requested to open them) were based on a clear appreciation for the economic stringencies which exist today.

Question: While it is appreciated that the United States should have representation at Bandar, Brunei, upon that nation's independence in January 1984, please provide some compelling information on Bandar, as well as those other well-known spots, Chengdu, China, and Enugu, Nigeria.

Answer: In the case of Bandar we plan to establish diplomatic relations with Brunei after it receives its full independence from Great Britain in January 1984, and as a consequence to open an embassy in its capital, Bandar. We want to have diplomatic relations with this new state because:

-- it is friendly to the United States;

-- it is located in a strategic geopolitical situation;

-- Brunei will probably be asked to join ASEAN in 1984;

-- it would contribute to regional stability for the United States to give concrete expression (the embassy) to its support for this oil-rich, fledgling nation; and finally

-- there are upwards of 1,000 U.S. citizens resident in Brunei.

We want to establish a consulate in Chengdu, PRC, because:

-- we agreed with the Chinese in 1980 to establish five consulates in each other's territory and Chengdu would be our fourth;

-- Chengdu is a large, important transportation center (2.3 million metropolitan population) located in a region with 180 million people, which is larger in area than all of the countries in Eastern Europe combined. Moreover, this southwest region of China is rich in mineral resources, is undergoing major export-oriented industrial development, and is the site of several huge American assisted petrochemical and energy-related projects.

We plan to reestablish a post at Enugu, Nigeria, because:

-- it is the most important site in Nigeria's most populous (35 million) eastern region;

-- its innovative and hard working citizens have played and will continue to play a central role in Nigeria's economic, political and cultural life;

-- it is the focal point of Nigeria's economy (oil and gas production, petrochemicals, etc.);

-- this eastern region generates some 35% of our consular workload in Nigeria (visas and protection of U.S. citizens);

-- the commercial opportunites for American firms in Enugu and its environs generated by a trade deficit of approximately seven billion dollars are unusually attractive.

Question: Do we have U.S.-owned buildings at these places to house these new posts; or how will we provide for the offices and housing needs of our staff?

Answer: There are no U.S.-owned buildings in Bandar, Chengdu or Enugu. We are presently involved in preliminary discussions with the host governments and/or local landlords to develop plans including housing and office space for each of the three cities. Because each site presents unique circumstances, the precise arrangements will be different. However, in general, the following represents the present state of our space arrangements:

-- In Bandar, suitable offices in a building have been identified and surveyed; and we are currently working out the details of the short term lease with the landlord. The small staff will initially be housed in a hotel and then moved fairly quickly into leased quarters.

-- In Chengdu, we propose to rent office space and residential space in a hotel until adequate facilities have been built by the Chinese.

-- In Enugu, housing and office space will be acquired by short term lease.

Embassy Relations with U.S. Business Firms

Our distinguished Ambassador, George W. Landau, holds a monthly meeting at his residence with representatives of American business firms in Venezuela. Ambassador Landau started in the Foreign Service as a Commercial Officer and strongly supports American business. These sessions have been highly praised as maintaining a strong relationship between the Embassy and our firms operating in Venezuela.

Question: Do all Ambassadors in countries with large representations of American businesses regularly hold such meetings?

Answer: Periodic discussions between Ambassadors and members of the American business community are an integral part of each Embassy's normal operating routine. Secretary Shultz reinforced this philosophy with a message in August 1982 on the Ambassador's role in export promotion and support of American business. He told all our Ambassadors, "One of the most important contributions you can make to the nation's economic well-being is to provide strong, personal leadership to your mission's trade promotion efforts and support for American firms doing business in your country." Although each Ambassador has a personal style and may choose any number of methods of promoting ties between the Embassy and the American business community different from that of Ambassador Landau, Secretary Shultz has made it clear that support for U.S. firms overseas is a top priority of this Administration and the Ambassador is expected to provide personal leadership in this effort.

Question: According to the Venezuelan-American Chamber of Commerce and Industry, our former Ambassador used these sessions to lecture the U.S. business community. How does the Department monitor these activities to insure that they are promoting good relations between the Embassy and business firms?

Answer: The Department has established an Office of Business and Export Affairs whose primary purpose is to promote U.S. exports and assist companies doing business abroad. The Director of this office and other Department officers receive several hundred Chief Executive Officers from U.S. firms doing business abroad every year, and the number of senior businessmen given appointments with the Secretary has increased substantially in the past year.

Businessmen are not shy about bringing criticism as well as praise to the Department's attention, and feedback from these representatives of business firms shows a significant improvement in the relationship between Embassies and their American business constituents overseas. Each Embassy is also tasked with producing a semiannual Economic Trends Report, which includes comments on the climate for U.S. trade and investment in the host country.

Security

Question: Don't you need an Assistant Secretary for Security?

Answer: Most of the security related programs are shared by three operational elements of the Bureau of Administration -- the Office of Security, the Office of Communications, and the Foreign Buildings Office. While the Department believes the present organizational structure is adequate in having all elements in one Bureau we have and will continue to study these programs to see if changes are necessary for better management.

Question: Are your SY agents who investigate passport fraud cases allowed to carry weapons?

Answer: SY agents are not allowed to carry weapons when investigating passport fraud cases because they lack the specific statutory authority to do so. They do have statutory authority to carry weapons while performing protective security functions.

Question: Are they classified as S-1811 agents or the equivalent thereto in the Foreign Service?

Answer: As mandated by the Foreign Service Act of 1980, the Department is currently moving in the direction of changing the more domestically oriented positions (investigators) from Foreign Service (FS) to General Schedule (GS). OPM has recently certified such positions as 1811 Criminal Investigators. There is no equivalent GS-1811 series in the Foreign Service.

Question: Are your agents allowed to make arrests in passport fraud cases?

Answer: SY agents do not have the statutory authority to make arrests in passport fraud cases. As stated in response to a previous question, the Department is attempting to obtain such statutory authority through new legislation which is currently pending in OMB.

Embassy Security - Beirut

Question: Mr. Secretary, how much damage to the building was sustained by the bombing of the embassy in Beirut on Monday?

Answer: The Department sent a survey team which included a structural engineer to evaluate the condition of the bombed building. The survey team concluded that the Embassy is unfit for further use. City of Beirut engineers reached the same conclusion.

We estimate that over 1500 pounds of explosives caused the partial collapse of the Embassy. Portions of the remaining building, particularly the east wing, are in danger of collapse. The mechanical, plumbing, electrical, heating, ventilating and air conditioning systems were destroyed. The City of Beirut has formed an ad hoc committee of engineers to determine whether the building has to be demolished soon for reasons of public safety.

Question: When will the Department be in a position to let us know its plans for replacing the embassy in Beirut?

Answer: The Department plans to complete construction of the partially completed Embassy building that was halted in February, 1976 because of the Lebanese civil war. The survey team and the post strongly recommended that we complete the building because alternative adequate office space is not available. Until construction can be completed, the post plans to lease temporary office space. The Department is preparing cost estimates to complete the partially constructed building and plans to submit to OMB a request for additional funds soon.

Security Enhancement - Beirut

Question: It is our understanding that a Security Enhancement Program was completed in Beirut but was it contemplated to protect the Embassy from this type of attack?

Answer: No. The Security Enhancement Program was especially designed to counter the types of threat associated with mob attacks on our facilities, as occurred in Iran, Pakistan and Libya in late 1979, through additional security features such as improved Public Access Control (PAC) and other technical security systems, the extensive use of ballistic and forced-entry resistant materials, and the installation of mob deterrent systems such as tear gas and aqueous foam. Neither the Security Enhancement Program nor any of the Department's other security-related programs can provide the kind of physical protection required against the blast effects of high explosives.

Security Enhancement Program

Question: Have all the Posts now been surveyed as to security enhancement?

Answer: No. The program as currently planned calls for the enhancement of 64 posts. To date, we have surveyed 37 posts. We plan to survey 5 more posts during the balance of FY-1983, 13 more posts in FY-1984, and 7 in FY-1985. Two posts will not require surveys.

Question: What is the total projected cost of this program and how much has been appropriated, obligated, and expended to date?

Answer: The Security Enhancement Program was initiated in late FY-1980, and it is currently projected that the program will be funded through FY-1985. Total anticipated funding, through FY-1985, is $135 million. Of this amount, $92.7 million has been appropriated for the program through 7Y-1983, $82.7 million has been allotted, $69.8 million has been obligated and $53.5 million has been expended.

Question: Our staff has reported that the workmanship of the security enhancements at Bogota left much to be desired. Numerous panes of glass were cracked and the appearance of the renovated areas was shoddy. Embassy officials blamed this on the lack of good local contractors. What has been the Department's overall experience with the workmanship in installing the protective materials?

Answer: At the time of the Staff visit to Bogota in January 1983, the major part of the construction phase of the Security Enhancement Project had been completed but a good deal of finish work had yet to be done. The Chancery looks much better now, thanks to painting, laying of carpet, the removal of construction debris, and refurbishing of the Marine Security Guard booth. We did experience some glass breakage in security doors and windows, and the local contractor had some installation problems due to lack of experience in handling these heavy and cumbersome units. The Department's overall experience in the installation of protective materials has not been altogether satisfactory. Workmanship is not always up to U.S. standards. We seek to overcome this by providing close supervision by Site Supervisors and sending technical experts to the posts as required.

Moscow Security System

Question: Were the security needs at Moscow overlooked when the request was made last year for $3,800,000 to complete construction of the new Moscow complex; or why are we being asked to put up $2,266,000 for the Moscow security system for fiscal 1984?

Answer: The request for $3,800,000 was for support and security items which are primarily related to building construction, i.e. specially treated interior walls, air conditioning and power filters. The fiscal year 1984 Moscow new office building funding request for $2,266,000 is for surveillance and to purchase and install technical security systems required to prevent the compromise of classified conversations and documents, for access control and for restricted area monitoring. These systems and equipment have traditionally been S & E security expenditures and consist typically of such items as CCTV, alarm and access control systems and detection equipment.

Question: What is the status of the Moscow project and when will it be available for occupancy?

Answer: The following are percentages of completion for each building and estimated dates of completion:

Building	% Complete	Estimated Completion
Administration	48	11/85
Concourse	33	05/85
Consulate	28	05/84
School/Marine Quarters	60	09/84
Housing Unit No. 1	65	09/84
Housing Unit No. 2	53	12/84
Housing Unit No. 3	38	12/84
Housing Unit No. 4	50	11/84

The housing units and the school may be occupied in the latter part of 1984 based on the current construction schedule. However, occupancy by the families may have to be delayed until completion of the entire project because of hazardous conditions generally encountered on a construction site.

Passport Fraud

Question: International criminals use false identities to carry out their criminal activities. What is the Department doing to detect and prevent passport fraud both domestically and abroad?

Answer: Increasing awareness and concern over the extent of passport fraud undertaken to facilitate criminal enterprises constitutes a sobering challenge to the Department.

During 1982, the Department took several actions to intensify and expand its passport anti-fraud efforts. It committed substantial additional resources and personnel to counteract effectively the long-standing problem.

Twelve new positions allocated to Passport Services have specifically been targeted for anti-fraud work. A full-time Anti-Fraud Coordinator position was established in each of our passport field agencies. These positions are being filled by capable, senior passport examiners who have undergone intensive anti-fraud training.

In addition to pursuing fraud cases, Coordinators are encouraged to work closely with other Federal, state and local officials. They participate with these officials in assessing and combatting the various aspects of the false identity fraud problem in their respective areas of concern. As examples, the Louisiana State Legislature recently invited the Anti-Fraud Coordinator in New Orleans to give a presentation and testimony on fraud-related issues, and the Florida Department of Motor Vehicles sought the assistance of our Miami Anti-Fraud Coordinator in compiling and analyzing fraudulent documents to be used in their fledgling Anti Fraud Program.

Three additional positions have been allocated to Passport Services' headquarters fraud unit, the Evaluations and Standards Division, whose sole mission is to implement the passport anti-fraud program worldwide. This unit is now staffed by ten officers who furnish support and assistance to the field agencies and consular posts abroad. It also is responsible for: training in fraud detection and methodologies -- disseminating fraud related intelligence -- providing guidance in questions of legal efficacy in specific instances, the revocation of passports obtained by fraud -- arranging for investigative assistance from federal law enforcement agencies sharing a collateral interest in the pursuit and suppression of passport fraud.

Passport Services and the Office of Security view combatting passport fraud as a major priority. Committed to providing responsive investigative support to domestic Passport Agencies, the Office of Security has established a Passport Fraud Branch which coordinates the efforts of Security's Field Offices and Resident Agents in passport fraud cases.

There already have been dramatic results from this enhanced program. In only seven months, the number of actual apprehensions of passport fraud perpetrators for prosecution has increased significantly and there is much greater regularity in presenting these cases to the U.S. Attorney .

The Department is now taking another action to step-up its passport anti-fraud effort. It has purchased several telecopiers which allow the transmission of documents to a remote receiver within minutes. Though not yet fully operational, this network will prove a substantial aid in resolving fast-breaking suspected passport fraud cases. It can resolve questions of identity fraud which may hinge on the instantaneous transmission of a perpetrator's photograph, or in similar critical instances where a U.S. Attorney does not feel justified in authorizing an arrest on-the-spot unless he or she can be immediately provided with documentary evidence of wrongdoing.

The bulwark of the Department's defenses against fraud is the conscientious, well-trained Passport Examiner or Consular Officer. Using Consular Affairs Bureau and Foreign Service Institute resources, the Department is completely revamping its anti-fraud training programs and materials, tailoring them to specific audiences: Passport Examiners, Acceptance Agents at Post Offices and in Clerk of Court Offices, Foreign Service officers, criminal investigators, Customs and Immigration Inspectors, the Federal Law Enforcement Training Center at Glyncoe, GA, Security officers and Embassy Marine guards.

In addition, Passport Services provides individual briefings to Foreign Service Officers being assigned to high volume fraud posts. It also maintains extensive country files (for FSO's to inspect) depicting the type and extent of fraud activity they should anticipate. During 1982, the Bureau of Consular Affairs developed and distributed a Consular Anti-Fraud Handbook. This publication includes diverse information of use to personnel charged with examining documents and interviewing applicants. On a continuing basis, the Bureau sponsors regional anti-fraud conferences in areas of the world where fraud is a major concern. In those conferences, experienced officers from several posts meet to share experiences, effective techniques and to participate in workshops put on by Washington personnel covering up-to-date fraud trends and methods.

A growing problem encountered abroad is that of the forged passport document. In an attempt to reduce the amenability of the physical passport book to fraudulent tampering, Passport Services has formed a committee to reexamine the requirements of the travel document in terms of composition, durability, security features, and aesthetics. The committee has compiled data on an array of new technologies which might be incorporated into future machine readable passports to improve their integrity.

To coordinate the Consular anti-fraud effort, the Bureau of Consular Affairs created an Anti-Fraud Committee which meets regularly to oversee all aspects of consular anti-fraud work, sets priorities and assures that attention is given to new trends in fraud and technologies for combatting them. This Committee is chaired by a ranking official of the Bureau of Consular Affairs -- includes representatives of several offices in the Department and from the

Immigration and Naturalization Service. This effort takes on additional importance with the recent passage of Public Law 97-241. Under provisions of that law, the United States passport became proof of U.S. citizenship. Given the debate on proposed revisions of our national immigration policy, to include employer sanctions for those who hire undocumented aliens, it may be assumed that there is currently and prospectively an increased threat of aliens attempting to obtain U.S. passports through fraudulent means.

There has been a higher percentage of fraud detected prior to issuance of passports. The Department is encouraged by this trend and is striving to do an even better job.

Question: Are you statisfied that you receive sufficient advance intelligence to prevent another embassy takeover or abduction of one of our diplomats?

Answer: No. For the past several years, the intelligence community has received a vast amount of intelligence on alleged terrorist plans against our foreign posts and diplomatic personnel. This intelligence is of a general nature describing the intent of named terrorist organizations. As a rule, it does not consist of such details as specific dates, times, tactics, weapons or explosives, locations and terrorist personnel involved. It is doubtful that in the near future we will receive such specific information, because terrorist groups are small, splintered, numerous, constantly forming and extremely difficult to penetrate.

Office of Security

Question: Where does the Department or the Reagan Administration draw the line so far as the danger to an Embassy being so great that our employees must be evacuated?

Answer: While circumstances will vary in each case, the Department's overall policy was described in a document entitled "General Principles on Security of USG Personnel at Overseas Missions" which was sent to all diplomatic and consular posts on October 14, 1982. The relevant paragraph follows:

"The Chief of Mission is obligated to endeavor to assure that the host government carries out its Vienna Convention responsibilities and immediately to inform the Department should the host government refuse or not be able to provide the protection prescribed for diplomatic and consular personnel and facilities. The Department makes the political decision whether to maintain a post even if the host government is unable to provide protection and allots the resources needed to implement that decision."

Emergency Action Manual

Question: Are you satisfied that your Emergency Action Manual covers all situations that are dangerous to our American employees that are living overseas?

Answer: Yes. The Emergency Action Manual provides guidance to posts in planning for all types of emergencies. The manual emphasizes the role of the post Emergency Action Committee, usually chaired by the Deputy Chief of Mission, and stresses the method by which the post responds to a great variety emergency situations rather than specific reactions to incidents which can be quite unpredictable in their detail. In providing this framework for post decision making during an emergency, the manual ensures that posts follow USG policy, consider various options and resources, and make decisions based on information and steps determined in their specific post Emergency Action Plans.

The manual provides policy guidance and specific information to posts for inclusion in the post-specific Emergency Action Plans. The plans, required by the manual, are reviewed by Department of State Regional Bureau Country Officers, Office of Security, Bureau of Consular Affairs, Office of Communications, Office for Combatting Terrorism, and Operations Center Task Forces Officer. In addition each Emergency Action Plan is reviewed for evacuation and counter-terrorist planning coordination by a joint DOD/DOS liaison group in each of the five unified commands.

The manual requires that the following emergencies be addressed in the post-specific plans:

Evacuation (from reduced personnel levels at post to full evacuation of all Americans in the country)

Emergency Action Manual

Safehaven and destruction of classified/sensitive material

Emergency communications

Internal defense

Bomb threat

Acts of terrorism

Aircraft hijacking

The manual also requires that complementary plans be maintained according to Department guidance for the following:

Fire emergency

Disasters and disaster relief

Question: Have your procedures for closing a threatened embassy improved since Iran?

Answer: Yes. Policy guidance, specific instructions on procedures and steps to take, and administrative details are well defined by the new Emergency Action Manual, which was published in January 1982.

The post-specific Emergency Action Plans that are required by the manual further clarify the actions to be taken by particular office and individuals, the phases for reducing personnel by position and according to the situation, and the procedures by which a post which is closing provides assistance to nonofficial Americans (either evacuating or remaining in the country).

Protection of Foreign Consulates in the United States

Question: Last year an appropriation of $6,000,000 was requested for protection of foreign consulates in the United States. The Committee was not able to deal with that request because the appropriation was not authorized.

What are the Department's present plans for protecting foreign consulates in the United States and how will any protection of such consulates be funded?

Answer: Although the Congress did not act on our specific legislative proposal, it did approve the Foreign Missions Act. We have reviewed the provisions of that Act with regard to the protection of foreign diplomatic and consular personnel and consider that it provides adequate substantive authority. The Administration has, therefore, proposed an authorization of $6 million under that Act and also submitted an appropriations request.

Our objective is to discharge effectively the responsibility of the U.S. Government in the same manner that we expect other governments to discharge their responsibility to us.

Within our Federal system, it has historically been considered to be the responsibility of the several States to discharge the security obligations which the U.S. Government accepts in receiving foreign diplomatic and consular personnel. This has been premised on the Constitutional obligation of the several States to provide equal protection of the law to all persons within their respective jurisdictions. This system has worked very well in quieter times, but the increasing level of terrorism and actual harm to foreign diplomatic and consular personnel has required the Federal Government to review the problem and consider additional steps.

To this end, in 1970, Congress decided that the Federal Government would assume a more direct responsibility for the protection of foreign diplomats in the Washington, D.C. area. In 1974, Congress agreed to provide reimbursement to New York City for extraordinary protective security services provided to the diplomatic missions and diplomatic personnel accredited to the United Nations there.

However, the Federal Government has not been significantly involved in the protection of foreign officials outside the Washington and New York City areas. It has, through the Secret Service or the Department's Office of Security, been responsible for the protection of high level foreign officials who travel in the United States. The responsibility for resident foreign officials, outside of Washington and New York, has been discharged almost entirely by the local and State Governments as effectively as possible within available resources. But at times certain of them have emphasized that with limited resources their obligation is to provide equal protection of the law to all persons within their jurisdiction as stated by the Constitution, and was not necessarily the special level of protection required at times as an international obligation of the United States.

As a result, in some cases where the Secretary of State has requested extraordinary protection such as fixed guardposts at a building or residence or dedicated bodyguard protection to a foreign official who has been specifically threatened, authorities in some jurisdictions have been reluctant or refused.

We consider that this position of the State and local authorities in some cases is reasonable and consistent with the historic and Constitutional division of power between the Federal and State Governments.

In this regard, the Foreign Missions Act of 1982 now gives the Secretary of State the necessary authority to contract with State and local authorities to provide such extraordinary assistance, such as fixed guardposts or protective details for threatened foreign officials. We would, of course, want to consider using our own or other Federal resources first. But if these are not available on an urgent basis, then the most logical and efficient way to do it is contract with the local and State law enforcement agencies. There will, of course, be occasions when these agencies cannot help because of time constraints, jurisdictional problems, or resource limitations. We would then turn to a third alternative which is a private security firm, to the extent that funds are available therefor.

FOREIGN BUILDING OPERATIONS

Riyadh Embassy Complex

Question: The Canadian Foreign Buildings Office has limited the bidding on their new Embassy complex in Riyadh to Canadian firms and joint-ventures which had a Canadian element. The Italians, Koreans and British have excluded foreign firms from bidding on their embassy. Why does the Foreign Buildings Office allow firms from these countries to bid the U.S. Embassy in Saudi Arabia, if their countries preclude American firms from bidding on their projects?

Answer: The Office of Foreign Buildings (FBO) follows the basic Government Procurement Policies to the maximum extent possible in order to obtain full and fair competition and the best price from a responsible bidder. FBO deviates from these policies when it is necessary to meet a program goal. For example, for security reasons the finishing contracts for the Moscow Chancery were awarded only to cleared American contractors, and for reasons of urgency the contract for rehabilitating the Lagos Chancery after the fire was awarded to the American contractor that had built the Chancery a few years before.

If FBO limited the bidding to American firms, it would reduce competition and would add to the cost of the project. In Saudi Arabia where American contractors are already mobilized because of other work, FBO expects highly competitive bids from American contractors. However, in most of the foreign countries where FBO has projects, particularly lesser developed countries, no American contractor is mobilized, and FBO would have to pay a significant premium to use an American contractor.

FBO includes the Buy American preferences for materials in its construction contract. Generally, more than 50% of the materials for each project are purchased in the United States. This obviously helps our balance of payments situation and maximizes use of American labor.

FBO believes that it is cost effective to allow unlimited bidding on the Riyadh and all other FBO projects. FBO continues to encourage American contractors to bid and to include the lowest bids of American contractors in the contract negotiation.

Question: What consideration is given to American firms by the Foreign Buildings Office to make sure that U.S. firms can bid on foreign building projects?

Answer: FBO gives non-financial preference to American contractors by requesting as many as possible to submit proposals for our projects. If an American firm is within the competitive range of the low bidder, we include the American firm in the negotiation process to see if the firm could somehow reduce its price in the best and final offer process and become the lowest responsive bidder. We are as liberal as practicable in determining the competitive range to include American contractors. We did this on the Cairo project. The lowest American firm's bid was fourth from the lowest and was about 12% higher than the lowest bidder. Normally, we would not have included the fourth lowest bidder in this situation, but we did because it was an American firm and we wanted to provide every opportunity.

Question: What consideration does the FBO give to the economic return of having a U.S contractor build U.S. embassies overseas?

Answer: FBO includes the Buy-American provisions in all of its requests for bid proposals and up to 80% of the materials are U.S. origin products. Generally, we have found that American construction firms form joint ventures with local construction firms. In such cases, American firms provide the management expertise for supervision and use their contacts and resources to supply the materials; the local firms furnish the common construction labor. For specialized equipment for our Embassy projects, American firm sends a team of specialists to the foreign country to install the equipment.

Question: Why was the Foreign Buildings Office, under the Foreign Service Building Act of 1926, excluded from standard U.S. Federal Government procurement regulations? (Chpt. 250, Section 3).

Answer: At the time the Foreign Buildings Act of 1926 was enacted, there were no procurement regulations in existence. However, there were a large number of statutes which governed construction activities by the U.S.Government. The Foreign Buildings Act of 1926 gave the Department of State the specific statutory authority necessary to commence its program and provide the flexibility needed to construct and manage projects in countries throughout the world. FBO follows the basic U.S. Government procurement policies to the maximum extent possible. However, some flexibility is necessary to meet differing conditions abroad.

Budapest Staff Housing

Question: Last year, at my request, Congress approved $3,000,000 to convert U.S. Government-owned buildings in Budapest for use as staff housing. What is the current status of the Budapest project?

Answer: The rehabilitation of Budapest staff housing started this fiscal year. It is a three part program: removal of tenants from the buildings to be renovated, the development and design work, and construction.

Parts one and two have begun. Tenants relocation is in progress. Some twenty Hungarian families have lived for many years in the three buildings designated for rehabilitation. Under Hungarian law, no tenant can be made to leave his home until the landlord finds an acceptable alternative location and/or both parties come to some mutually acceptable financial understanding. The Government of Hungary has suggested that we enter into direct negotiations with the families. We have retained a

Hungarian attorney to represent us with the families, and the terms of the contracts are being drafted.

Part two, the design and development work, is also under way. An architect has been chosen and is expected on site within in mid-June, 1983. The design and development work will result in detailed working drawings from which construction may begin. This effort will extend into 1984.

Part three, construction, will begin in early 1984 after parts one and two are completed.

Seoul Chancery

Question: It is my understanding that there are plans to replace our chancery in Seoul with a new building and that the United States will receive a fair amount for our present facility.

What are the plans for Seoul and specifically, has the Department budgeted funds for replacement of our chancery?

Answer: There are projections for constructing a new Chancery in Seoul. The present building was constructed by the U.S. Agency for International Development (AID) in 1962 with the understanding that it would revert to the Republic of Korea when our economic assistance program terminated. Subsequently, our AID program in Korea terminated and we closed our AID office on September 30, 1980. The Korean government has, however, allowed us to use the building at no cost until we could construct a new facility.

The design is estimated at $1.5 million and the cost of construction is estimated at $23 million. If one of the Embassy properties is sold, the proceeds will be used to meet the design costs of the proposed new building. The Department plans to request funds in the future for the construction.

HOUSING IN BOGOTA

OUR EMBASSY IN BOGOTA HAS ADOPTED A POLICY THAT ALL NEW STAFF ARRIVALS WILL BE HOUSED IN APARTMENTS DUE TO THE SEVERE CRIME PROBLEM IN THAT CITY. IT IS OUR UNDERSTANDING THAT FBO HAS INCLUDED IN ITS OUTYEAR BUDGET FUNDS FOR PLANNING THE CONSTRUCTION OF 10 STAFF APARTMENTS IN BOGOTA.

Question: In what particular year and in what amount are such funds budgeted?

Answer: Funds in the amount of $500,000 for purchase and $317,000 for development of a site for ten staff apartments are currently projected in the long-range program. Construction is projected in the range of $5 million.

Question: What consideration has been given to purchasing present units in condominiums?

Answer: The Embassy and FBO agree that this would be of benefit to the U.S.Government. However, the Embassy has been unsuccessful in its attempts to include our standard option to purchase clause in lease agreements. Colombian landlords have strong objections to clauses of this type, primarily, because of the high inflation rates and the uncertain future of the local economy.

Question: In view of the rental cost in Bogota, such as $36,000 a year for an apartment for one staff member of Counselor rank, what would be required for purchase of condominium units in order to avoid such excessive rental costs?

Answer: Currently, Bogota has no leases over $30,000. The post is, however, searching for an apartment for the DCM and expects to pay approximately $36,000 per annum for suitable representational quarters. Average rental costs for mission members are under $25,000 per year, with only six apartments costing between $25,000 and $30,000. The post estimates that the purchase price of three bedroom, nonrepresentational staff apartments would be between $100,000 and $150,000 on todays market. While purchase of such units could be amotized between three and ten years, given current rentals, there are higher priority requirements in the capital program for facility acquisition and rehabilitation.

Before approval can be given to purchase any housing units, the building would have to meet requirements for structural stability, fire and life safety, and seismic standards. This would entail review of "as built" drawings by FBO in Washington. If the drawings were found to be acceptable, a follow-up trip to Bogota would be necessary to confirm that actual construction conformed to the drawings. The cost of this review procedure, while not excessive, is certainly a consideration when funds are not available for subsequent purchases.

EMBASSY AT BRIDGETOWN, BARBADOS

OUR EMBASSY AT BRIDGETOWN, BARBADOS OCCUPIES THE UPPER FLOOR OF A COMMERCIAL BUILDING WHILE THE COUNSELOR SECTION IS LOCATED IN ANOTHER BUILDING AND THE AID MISSION IN STILL ANOTHER BUILDING. WE UNDERSTAND THAT FBO HAS INCLUDED IN ITS OUTYEAR BUDGET FUNDS FOR PLANNING THE CONSTRUCTION OF A CHANCERY IN BRIDGETOWN.

Question: Specifically, what year are those funds budgeted and in what amount?

What is the Department's best estimate of the cost to construct a chancery at Bridgetown?

Answer: Design of a new Chancery ($809,000) and site acquisition ($500,000) are projected in the long-range capital program. Construction is projected for fiscal 1991 in the range of $10 million.

To relieve the crowded conditions in the Chancery, the Embassy leased in late 1982 an additional 2,925 gross square feet on the floor directly below and relocated all administrative functions to that space. The entire fourth floor was renovated and refurbished and a Public Access Control system was installed. The substantive sections of the Embassy now have ample and attractive space to meet their requirements. Thus, a new Chancery is not urgently needed.

Blair House

Question: Last year there was considerable concern over the condition of the Blair House. Are there funds requested in fiscal year 1984 for repairs to Blair House? What is the overall program for restoring this national treasure?

Answer: In December 1982, the State Department transferred Blair House to the GSA "Register of Public Buildings". GSA has now assumed responsibility for the renovation and restoration of this historic building. In FY 83 GSA was authorized to use two million dollars to begin the project, with further funds contingent upon Congressional approval.

The following renovation and restoration schedule has been established by GSA with the concurrence of the State Department:

A. February 1983 - The Cooper Lecky firm began a reappraisal of their initial cost estimates submitted in March 1982. This reappraisal is 95% completed and includes an independent cost verification of all project expenses prepared by Hanscomb Associates.

B. Also in February, GSA conducted a nationwide competition for the Architectural/Engineering phase of the project. Six short listed firms were interviewed in March. GSA is now negotiating this A/E contract with the highest rated bidder, but has not yet announced the award of contract.

C. The A/E firm chosen is expected to complete specifications for the construction phase of the project by July 1984, using the Cooper Lecky study to define their scope of work.

D. The Construction contract will proceed if GSA receives Congressional approval to use additional funds for the Blair House project. If such approval is granted, actual construction work will require 18 months to two years to complete.

E. The target date for the completion of the project is July 1986.

With the exception of normal expenses for maintenance and repair of funiture and furnishings, and some anticipated emergency maintenance of existing mechanical systems, no State Department funds will be expended for the renovation of Blair House.

The Emergencies Appropriation

Question: How much of this appropriation was used for representation and entertainment in the United States during fiscal years 1980, 1981, and 1982?

Answer Expenditures from this account are considered as classified information and can be provided to the Committee in a classified format, as the Committee desires.

Question: Instead of classifying such representation and entertainment expenditures as "unforeseen emergencies" and charging them to this appropriation, would it not be more appropriate to establish a Departmental entertainment allowance in the Salaries & Expenses appropriation with the thought that no further such domestic entertainment would be charged to this appropriation?

Answer The common budgetary title "Emergencies" is possibly inappropriate due to the use of this account for some various types of representation expenditures, however House and Senate appropriations and authorization committees have historically used this common title as descriptive of the entire account.

The Senate Authorization Committee recognizing the need to codify in law the specific uses and guidelines of this account, while maintaining it's basic confidential nature, has added these to the Department's Authorization Act for FY 1984 and 1985.

The Department does not believe it necessary to create a new account given Authorization Committee action. However a name change of the account, accomplished through the appropriations process of the account, may be appropriate.

Question: What amount would the Department suggest for a domestic entertainment allowance in fiscal year 1984?

Answer The Department believes that given the action by the Senate Authorizaton Committee, a single account renamed provides the full flexibility necessary for all items covered by the account.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

STATEMENT OF GREGORY J. NEWELL, ASSISTANT SECRETARY FOR INTERNATIONAL ORGANIZATION AFFAIRS

ACCOMPANIED BY:

- MARK EDELMAN, DEPUTY ASSISTANT SECRETARY FOR INTERNATIONAL MANAGEMENT AND BUDGETARY ANALYSIS
- RICHARD V. HENNES, EXECUTIVE DIRECTOR
- KEVIN E. CARROLL, DIRECTOR, OFFICE OF INTERNATIONAL CONFERENCES
- CHARLES E. WATKINS, BUDGET OFFICER

BUDGET REQUEST

Senator **LAXALT**. Our next request is that of the Department of State, International Organizations and Conferences. The amount requested for fiscal year 1984 is $602,343,000 and provides funds for contributions to international organizations, contributions for international peacekeeping activities and international conferences and contingencies.

Appearing on behalf of this request is Gregory J. Newell, Assistant Secretary for International Organization Affairs. Mr. Newell, we are pleased to hear your statement.

Mr. **NEWELL**. Thank you, Mr. Chairman, and members of the committee. I am pleased to come today to support this request. If I could, I would like to make a summary statement and put a backdrop on this request.

Senator **LAXALT**. That will be in order. We will cause your full statement to be filed for the benefit of the other members of the subcommittee.

Mr. **NEWELL**. Thank you, Mr. Chairman.

[The statement follows:]

PREPARED STATEMENT OF GREGORY J. NEWELL
INTERNATIONAL ORGANIZATIONS AND CONFERENCES

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE THIS COMMITTEE TO REQUEST $602,343,000 IN 1984 FOR INTERNATIONAL ORGANIZATIONS AND CONFERENCES. CONCERNING SPECIFIC 1984 LEVELS WE ARE PROPOSING $525,773,000 FOR CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS, $66,948,000 FOR CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES AND $9,622,000 FOR INTERNATIONAL CONFERENCES AND CONTINGENCIES. I WISH FIRST TO PLACE THE REQUEST IN CONTEXT BY DESCRIBING MY BASIC APPROACH TO THE UN AND TO THE BUREAU OF INTERNATIONAL ORGANIZATION AFFAIRS.

LET ME ADDRESS FIRST THE RELATIONSHIP BETWEEN THE IO BUREAU AND OUR MISSION IN NEW YORK. MANY BELIEVE THE CABINET STATUS OF THE U.S. REPRESENTATIVE TO THE UNITED NATIONS MAKES THE ASSISTANT SECRETARY'S JOB IMPOSSIBLE. I BELIEVE THAT AMBASSADOR KIRKPATRICK AND I TOGETHER HAVE LARGELY OVERCOME THE INHERENT DIFFICULTIES. INEVITABLY, OUR DIFFERENT PERSPECTIVES HAVE SOMETIMES RESULTED IN DIFFERENT OPINIONS. WE HAVE FELT NO NEED, HOWEVER, TO BELABOR SUCH OCCASIONAL DIFFERENCES; OUR COMMON RESPECT FOR ONE ANOTHER AND OUR COMMON DEDICATION TO SERVING THE PRESIDENT HAVE KEPT OUR ENERGIES FOCUSED ON THE PROBLEMS AT HAND.

ONLY DAYS AFTER I TOOK OFFICE LAST JUNE 4, I ANNOUNCED FIVE POLICY PRIORITIES TO GUIDE THE WORK OF THE BUREAU. WE HAVE INCORPORATED THESE PRIORITIES INTO OUR DAY-BY-DAY MANAGEMENT OF MULTILATERAL ISSUES, AND WE HAVE USED THEM TO MAINTAIN A STEADY

FOCUS ON THOSE MATTERS OF GREATEST IMPORTANCE TO THE UNITED STATES.

THE FIRST PRIORITY IS REASSERTION OF AMERICAN LEADERSHIP IN INTERNATIONAL ORGANIZATIONS. WHEN WE SPEAK OUT CLEARLY, NATIONS LISTEN. WHEN WE PRESENT CONSTRUCTIVE PROPOSALS, THEY CAN WIN SUPPORT. IN THE LAST GENERAL ASSEMBLY, FOR EXAMPLE, WE TURNED BACK CUBA'S EFFORT TO PUT PUERTO RICO ON THE ASSEMBLY'S AGENDA, AND WE WERE INSTRUMENTAL IN DEFEATING AN ATTEMPT TO EXCLUDE ISRAEL. BOTH WERE TOUGH SITUATIONS IN WHICH WE TOOK CHARGE AND PREVAILED.

SECOND, BUDGETARY RESPONSIBILITY. THE UNITED STATES IS DEDICATED TO SUPPORTING INTERNATIONAL ORGANIZATIONS WHOSE ASSESSED BUDGETS REFLECT CONSERVATIVE FISCAL POLICIES AND ECONOMIC REALITY. THE PRESIDENT'S OWN BUDGET POLICY IS ZERO NET PROGRAM GROWTH AND SIGNIFICANT ABSORPTION OF NONDISCRETIONARY COST INCREASES. IN VIEW OF THE RESTRAINT BEING IMPOSED ON THE DOMESTIC PROGRAMS OF THE UNITED STATES AND OTHER MAJOR CONTRIBUTORS, INTERNATIONAL ORGANIZATIONS SIMPLY CANNOT BE IMMUNE FROM THE SAME ECONOMIC CONSTRAINTS. ALTHOUGH THE BATTLE IS FAR FROM WON, WE ARE SEEING ENCOURAGING SIGNS -- LIKE THE DEFEAT OF AN UNWARRANTED PAY RAISE FOR UN EMPLOYEES -- THAT OUR INSISTENCE ON RESTRICTING BUDGET GROWTH IS STARTING TO GAIN SUPPORT.

THIRD, STRENGTHENED U.S. INFLUENCE IN INTERNATIONAL CONFERENCES. LEANER DELEGATIONS WILL NOT ONLY SAVE MONEY BUT ALSO ASSURE MORE DISCIPLINED DELEGATIONS. OUR GOAL HERE IS TO REDUCE BY 30 PERCENT THE NUMBER OF GOVERNMENT DELEGATE TRAVELLERS COMPARED TO FY 1980. OVER THE LAST EIGHT MONTHS WE ACHIEVED A REDUCTION OF MORE THAN 26 PERCENT.

FOURTH, MORE U.S. NATIONALS SERVING IN INTERNATIONAL ORGANIZATIONS. WE SEEK BOTH TO IDENTIFY IMPORTANT POLICY-MAKING VACANCIES FOR AMERICANS AND TO ENSURE THAT AMERICANS OCCUPY POSITIONS AT JUNIOR LEVELS AND ARE GIVEN OPPORTUNITIES TO ADVANCE. WE WANT NO UNFAIR ADVANTAGE BUT ONLY THAT THE NUMBER OF POSITIONS HELD BY AMERICANS FALLS WITHIN THE ESTABLISHED RANGES. WE FEEL WE ARE MAKING PROGRESS IN SOME KEY AREAS.

AND FIFTH, AN INCREASED ROLE FOR THE PRIVATE SECTOR IN THE PROGRAMS AND ACTIVITIES OF THE INTERNATIONAL ORGANIZATIONS. WE SEEK TO ENCOURAGE UN PROGRAMS WHICH DRAW UPON PRIVATE SECTOR EXPERTISE AND FUNDING, TO SOLICIT PRIVATE SECTOR VIEWS ON UN ISSUES, AND TO COMBAT NEGATIVE ATTITUDES TOWARD THE PRIVATE SECTOR WITHIN THE UN SYSTEM AND AMONG MEMBER STATES. CONCRETELY, WE HAVE, FOR EXAMPLE, DEVOTED GREATER RESOURCES TO UNESCO'S INTERNATIONAL PROGRAM FOR THE DEVELOPMENT OF COMMUNICATIONS TO DRAW THE PRIVATE SECTOR INTO UNESCO ACTIVITIES, AND WE HAVE GOTTEN A NUMBER OF AMERICAN COMMUNICATIONS COMPANIES TO TRAIN DEVELOPING COUNTRY OFFICIALS IN THE USE OF U.S. COMMUNICATIONS TECHNOLOGY.

TO IMPLEMENT THESE PRIORITIES, I LAUNCHED ON JULY 15 A SYSTEMATIC REVIEW OF THE INTERNATIONAL ORGANIZATIONS AND PROGRAMS FOR WHICH MY BUREAU HAS SOME RESPONSIBILITY. IN CONSULTATION WITH OTHER BUREAUS OF THE DEPARTMENT OF STATE AND OTHER EXECUTIVE AGENCIES, WE ARE ASSESSING THE EFFECTIVENESS OF THE INTERNATIONAL ORGANIZATIONS AND WEIGHING THE BENEFITS AND COSTS OF OUR PARTICIPATION. OUR GOAL IS TO ENSURE THAT THESE ORGANIZATIONS PROMOTE BOTH AMERICAN AND WORLD INTERESTS.

FINALLY, LET ME INDICATE WHAT I SEE TO BE THE MOST SERIOUS

PROBLEMS CONFRONTING US AS WE SEEK TO SERVE OUR INTERESTS THROUGH PARTICIPATION IN INTERNATIONAL ORGANIZATIONS. FIRST, THE INTRODUCTION OF EXTRANEOUS POLITICAL ISSUES INTO THE DELIBERATIONS OF THE UN TECHNICAL AGENCIES' MEANINGFUL AND NECESSARY WORK. THE ATTACKS ON ISRAEL'S RIGHT TO PARTICIPATE IN DIFFERENT INTERNATIONAL ORGANIZATIONS IS JUST ONE EXAMPLE. BOTH SECRETARY SHULTZ AND THE PRESIDENT HIMSELF HAVE DEPLORED THIS DISRUPTIVE TENDENCY. THE SECOND PROBLEM IS THE LACK OF FINANCIAL DISCIPLINE IN INTERNATIONAL ORGANIZATIONS. THROUGHOUT MY EXTENSIVE CONSULTATIONS WITH SECRETARIAT OFFICIALS AND REPRESENTATIVES OF SOME 58 MEMBER GOVERNMENTS, I HAVE STRESSED THE NEED FOR FISCAL RESTRAINT. OUR SUCCESS IN DEALING WITH BOTH THESE PROBLEMS MAY WELL DETERMINE THE FUTURE OF INTERNATIONAL ORGANIZATIONS.

I APPRECIATE THIS OPPORTUNITY TO DESCRIBE FOR YOU THE APPROACH WE ARE TAKING IN THE BUREAU. IN SUM, MY ATTITUDE IS NEITHER CYNICAL NOR OVERLY OPTIMISTIC. THE BUREAU'S OVERALL OBJECTIVE -- AND THAT OF THIS ADMINISTRATION -- IS TO MAKE THE UN AND ITS AGENCIES WORK MORE EFFECTIVELY. WE HAVE BEEN CRITICAL, BUT FOR A CONSTRUCTIVE PURPOSE. IN AND THROUGH THE UNITED NATIONS WE WILL CONTINUE TO UPHOLD AMERICAN VALUES, EXPRESS AMERICAN VIEWS AND PURSUE AMERICAN INTERESTS, AND WE CAN AND MUST DO THIS WITHIN EXISTING BUDGETARY CONSTRAINTS.

I WILL EXPLAIN IN SUMMARY FORM THE MAKE-UP OF OUR REQUESTS.

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

AS YOU KNOW, U.S. ASSESSED CONTRIBUTIONS MAY BE GROUPED INTO FOUR GENERAL CATEGORIES:

UNITED NATIONS AND AFFILIATED AGENCIES.....	$388,795,000
INTER-AMERICAN ORGANIZATIONS..............	88,609,000
REGIONAL ORGANIZATIONS....................	40,352,000
OTHER INTERNATIONAL ORGANIZATIONS.........	8,017,000
TOTAL	$525,773,000

Mr. Chairman, our budget request of $525,773,000 for fiscal year 1984 is a total increase of $89.6 million over fiscal year 1983.

Of this increase, only $4.7 million reflects a net increase in assessments. The remaining $84.9 million is attributable to the completion of the U.S. deferral program. With the split-year funding during the transition period, our fiscal year requests previously had represented only a portion of our calendar year obligations to eleven affected organizations. The fiscal year 1984 request is to pay in full our calendar year 1983 obligations to those organizations. Further deferral for any of these contributions would place the United States in arrears.

The $388.8 million request for the United Nations and Affiliated Agencies includes a net increase of $69.9 million over fiscal year 1983. Of this, only $0.7 million reflects a net increase in assessments. The balance, $69.2 million, is attributable to the completion of the U.S. deferral program. Nine of the organizations in this general category were affected by the deferral.

The 1984 request for the Inter-American Organizations includes assessment increases totaling $3.0 million for the Inter-American Institute for Cooperation on Agriculture and the Pan American Health Organization. This increase is in part offset by a decrease of $1.2 million in the assessment of the Organization of American States. Thus, the 1984 request of $88.6 million represents a net increase of $1.8 million over fiscal year 1983.

FOR THE REGIONAL ORGANIZATIONS, THE FISCAL YEAR 1984 REQUEST OF $40.4 MILLION IS AN INCREASE OF $15.5 MILLION OVER FISCAL YEAR 1983. OF THIS INCREASE, $13.8 MILLION IS ATTRIBUTABLE TO THE COMPLETION OF THE DEFERRAL PROGRAM FOR THE ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT AND AN ASSESSMENT INCREASE OF $1.7 MILLION.

THE $8.0 MILLION 1984 REQUEST FOR THE TWENTY-ONE OTHER INTERNATIONAL ORGANIZATIONS INCLUDES A NET INCREASE OF $2.4 MILLION OVER FISCAL YEAR 1983. OF THIS, ONLY $0.5 MILLION IS FOR INCREASED ASSESSMENTS. THE BALANCE, $1.9 MILLION, IS FOR COMPLETION OF THE DEFERRAL PROGRAM FOR THE GENERAL AGREEMENT ON TARIFFS AND TRADE.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

MR. CHAIRMAN, THE UNITED NATIONS PEACEKEEPING FORCES ON THE GOLAN HEIGHTS AND IN SOUTHERN LEBANON ARE VITAL TO PEACE AND STABILITY IN THE MIDDLE EAST. THE UNITED NATIONS DISENGAGEMENT OBSERVER FORCE (UNDOF) AND THE UNITED NATIONS INTERIM FORCE IN LEBANON (UNIFIL) WERE ESTABLISHED BY THE SECURITY COUNCIL IN 1974 AND 1978 RESPECTIVELY. UNDOF MONITORS THE DISENGAGEMENT AGREEMENT ON THE GOLAN HEIGHTS AND UNIFIL'S OBJECTIVE IS TO RESTORE THE AUTHORITY OF THE LEBANESE GOVERNMENT IN SOUTHERN LEBANON. RECOGNIZING THE COLLECTIVE FINANCIAL RESPONSIBILITY OF ALL MEMBERS FOR THE MAINTENANCE OF PEACE AND SECURITY, THE EXPENSES OF THE FORCES ARE APPORTIONED BY THE UNITED NATIONS GENERAL ASSEMBLY IN ACCORDANCE WITH ARTICLE 17(2) OF THE CHARTER.

OUR FISCAL YEAR 1984 REQUEST OF $66,948,000 REFLECTS A DECREASE OF $6,452,000 DUE TO A NONRECURRING PAYMENT IN 1983 OF

A 1982 SHORTFALL. THIS SHORTFALL RESULTED WHEN THE SECURITY COUNCIL ON FEBRUARY 25, 1982, PASSED RESOLUTION 501 INCREASING THE AUTHORIZED TROOP STRENGTH FOR UNIFIL FROM 6,000 TO 7,000 MEN. THE UNITED STATES FY 1982 SHARE OF THIS INCREASE WAS $6,452,000 AND WAS PAID FROM FISCAL YEAR 1983 FUNDS.

INTERNATIONAL CONFERENCES AND CONTINGENCIES

THIS APPROPRIATION FUNDS OFFICIAL U.S. PARTICIPATION IN MULTILATERAL INTERGOVERNMENTAL CONFERENCES, CONTRIBUTIONS FOR THE U.S. SHARE OF EXPENSES OF NEW OR PROVISIONAL INTERNATIONAL ORGANIZATIONS, AND PARTICIPATION OF U.S. CONGRESSIONAL GROUPS IN INTERPARLIAMENTARY UNIONS. THE FISCAL YEAR 1984 REQUEST IS FOR $9,622,00 IN NEW BUDGET AUTHORITY, OF WHICH $8,042,000 IS FOR CONFERENCE PARTICIPATION, $1,340,000 IS FOR CONTRIBUTIONS AND $240,000 IS FOR THE PARTICIPATION OF U.S. CONGRESSIONAL GROUPS IN INTERPARLIAMENTARY UNIONS. INCLUDED IN OUR REQUEST FOR CONFERENCE PARTICIPATION IS $1,749,000 FOR CONTINUED PARTICIPATION IN THE MUTUAL AND BALANCED FORCE REDUCTIONS NEGOTIATIONS (MBFR).

THE FISCAL YEAR 1984 REQUEST IS A NET INCREASE OF $422,000 OVER FISCAL YEAR 1983. PRICE INCREASES OF $516,000 AND THE INCREASED COSTS OF DOMESTIC CONFERENCES, $62,000, ARE PARTIALLY OFFSET BY AN ESTIMATED DECREASE OF $156,000 IN THE REQUIREMENTS FOR NEW AND PROVISIONAL ORGANIZATIONS.

MR. CHAIRMAN, THIS CONCLUDES MY STATEMENT. I WILL BE HAPPY TO ANSWER ANY QUESTIONS WHICH YOU OR THE MEMBERS OF THE COMMITTEE MAY HAVE.

FIVE POLICY PRIORITIES OF INTERNATIONAL ORGANIZATION AFFAIRS

Mr. **Newell**. Ten months ago we established for the Bureau of International Organizations Affairs a set of five very specific policy priorities which would be pervasively applied throughout the system in our participation in some 85 international organizations. Those five very briefly are:

First, a desire to reassert American leadership in international organizations, a desire to move away from the damage limitation only and to move into some constructive behavior in the U.N. system.

Our second priority deals with budgets, restraining budget growth. Here the President's budget policy for 1983 and 1984 is zero net program growth and significant absorption of the nondiscretionary increases, such as inflation and unfavorable rates of exchange.

The third priority deals with U.S. nationals, and that is seeking to have more U.S. positions in international organizations.

Fourth, a desire to increase the private sector involvement with international organizations.

Fifth, a desire to send leaner and better prepared delegations to some 850 to 900 international conferences a year by seeking a reduction of 30 percent across the board of American travelers to these international conferences.

IMPLEMENTATION OF POLICY PRIORITIES

I would like to report very briefly on these five.

REASSERTION OF AMERICAN LEADERSHIP

While the 37th General Assembly produced some spectacles, we were in the favorable light there in the fall of last year with our success with the Puerto Rican issue, our success in beating back the challenge to exclude Israel from the General Assembly and the ITU conference, and maintaining Israel's participation in those organizations, and then, of course, the walkout on September 24 at the IAEA. That walkout has had a salutary effect.

Following the walkout, the Secretary made a very clear statement on October 16, indicating if Israel were excluded or expelled at the ITU, that the United States would walkout, withhold its financial contributions, and undertake a thorough reassessment and determine when and if and under what conditions we would reenter and participate. That not only had bearings on the ITU, but for any and all other organizations in the system, including the General Assembly itself.

BUDGETARY RESPONSIBILITY

On the budgetary matters, we believe that we have made a very good advance. We were able to fight back a 5-percent pay raise increase which totalled $45 million, which was defeated last fall.

The proposed budgets for the 1984-85 biennium have started to come in. We note in the World Health Organization a rate decrease in real terms of .31 percent, the first time in history. We received proposals from the World Meteorological Organization and the

World International Property Organization. The latter shows decreases in real terms. We also received the FAO budget, whose proposal in the last biennium was a real increase of 8 percent. This proposal shows a .5-percent increase.

Last month we attended a meeting of the ILO. It proposed a 1.89-percent real increase, which we felt was unacceptable, and we gave instructions to call for a vote at this meeting and to vote no unless we could get agreement that that budget remained open-ended. We did get that agreement from the Director General, and he is dispatching two individuals here in the next few days so we can sit down and talk about specific proposals and recommendations for cutting the budget back.

INCREASED AMERICAN PERSONNEL IN INTERNATIONAL ORGANIZATIONS

On the personnel issue, we have picked up the second position of the United Nations Environmental Program, second position in the ILO, and we have gotten commitments from other organizational heads, such as UNIPO, UNESCO, for senior positions.

LEANER DELEGATIONS TO CONFERENCES

On conferences, concerning our target of a 30-percent reduction, in the last 10 months we have been running at a 26-percent reduction. The first 4 months of this year we were running at a 27-percent reduction.

INCREASED ROLE FOR PRIVATE SECTOR

And in the private sector, we were successful with the ITU conference in putting forward with the private sector, managed and funded by the private sector, some 300 technical exchanges of Third World technocrats coming to this country for training on telecommunications equipment here. With IPDC the International Program for the Development of Communication, an offshoot of UNESCO, we are seeking to increase funding through USIA and AID to encourage the private sector fund-raising for that.

So we feel on these five policy priorities that we have made some good, modest headway.

FAILURES IN THE SYSTEM

There are two great failures that we note here in the system, and they are system-wide. The first is financial. The second one deals with politicization, such as the extraneous political items entered on the agenda for the IAEA, which we continue to fight against.

While the past few months have given us reason for encouragement, we certainly will remain and do remain vigilant against these two failures and other failures throughout the system.

That concludes our summary statement. I would be pleased to answer any questions.

PROCESS FOR EVALUATION OF INTERNATIONAL ORGANIZATIONS

Senator Laxalt. Thank you.

Gentlemen, obviously there are two major areas that this committee must address when we fund the account for Contributions to International Organizations. In this whole international area, as you know, with these budgetary stresses that we have, they come into particularly intensive scrutiny.

First, it seems to me as far as this particular committee is concerned, we have to make certain that the United States belongs only to worthwhile organizations.

Second, I think we have to guarantee that each international organization we belong to has a reasonable budget.

Tell me, in response to inquiries I get frequently from my colleagues, does the Bureau have a process so that we, on an ongoing basis, evaluate these various international organizations to see whether or not they are worth the buck. Do we evaluate why we belong in each organization? If we do belong in an organization, does it have the budgetary restraints so our investment in each organization is a reasonable one?

THREE-PART REASSESSMENT

Mr. NEWELL. We instituted on July 15 a thorough reassessment of our participation in these organizations. It is divided into three parts. The first deals with those organizations for which we have principal responsibility, totaling some 28. We undertook the assessment based on the criteria of our five priorities, which, as I say, issue from the President's public statements on foreign policy. We determine in each one of those areas if our needs and concerns could be met by that organization, or if they are not being met, how they could be met.

That program began on July 15 and it will conclude by September 1.

We then went to 58 other organizations for which we do not have primary or lead responsibility and have set out a comprehensive study format for each one of the lead agencies, such as Agriculture, Commerce, DOT, to answer the questions, which are as critical as our questions that we ask in our action programs.

Of the 58, we have received to date 54 of those back. Those organizations we are reviewing, and we will be looking at them in the broad context by September 1, when they have all been received, to determine not only are they still important to us and cost beneficial, but are they essential, because of competing needs for resources.

Now, I might add that in this administration we have curtailed or cut off funding to some of the organizations which we inherited. And we will continue looking with an eye as to how we can better maximize the resources that we have available to us.

That doesn't only mean we withdraw from organizations that are of no benefit, but we might even need to take a look at curtailing involvement in some of the organizations which are of lower priority, so that we can take those resources and the energy which it takes to function in those organizations and move them to higher priorities. So we do have a systemized method here.

Senator **Laxalt**. I think that is remarkably good news as far as this committee is concerned, because I have been asked about these concerns and now I am going to have a very good answer to the inquiries.

When you complete this in September, we would certainly appreciate your advising the members of this subcommittee as to the results of your investigation.

Mr. **Newell**. We will do that.

ORGANIZATIONS WITH HIGH-VACANCY RATES

Senator **Laxalt**. Very well.

Some of the organizations, we noticed in looking at the data, have relatively high vacancy rates. For example, UNESCO was last estimated at 17.4 percent. Does this indicate the organization may be over-budgeting for positions that aren't needed? When you have that kind of vacancy rate, you begin to wonder a bit in this business. Have you arrived at any kind of assessment of that or other comparable situations?

Mr. **Newell**. Sincerely, with UNESCO we don't believe, at least at this point in time, it is over-budgeting, but, rather, that UNESCO is under-managing and has poor management.

Senator **Laxalt**. Just not utilizing their resources properly, is that it?

Mr. **Newell**. Yes, for two reasons. First, we are given to understand, the Director General insists on signing off on all hirings himself. With an organization this large, that is not practical and doesn't work.

Second, the Director General travels a good deal of the time, probably in excess of 50 percent. Consequently, even in the best of worlds, he wouldn't even be able to come near staffing the vacancies which do come up.

We have established a working group, a Western working group, in Paris. We have gotten a response from UNESCO that this is justified behavior. But we are going back to recommend that those levels be brought more into line.

In the rest of the organizations we may have vacancies ranging from 2 to 5 percent. We do not see that as excessive. In fact, some organizations, such as IMO in London, have withheld hiring for 3 and 4 and 5 months, and are using the benefit of not having those positions filled last year to produce savings to the tune of $600,000—insignificant in our terms, but significant in terms of their overall budget, which has been, quite frankly, helpful to us.

IMPACT ON UNIFIL OF FOREIGN TROOP WITHDRAWALS IN LEBANON

Senator **Laxalt**. Very well.

Last, if an agreement is reached on foreign troop withdrawals in Lebanon—we certainly hope that comes about rather quickly—what would be the impact on the United Nations Interim Force in Lebanon? Is there the possibility after this is all done that this particular interim force would be withdrawn? Do you have any plans, or are you aware of any, of what is going to happen?

MANDATE OF U.N. INTERIM FORCE IN LEBANON

Mr. **Newell**. We treat the question of UNIFIL very frequently because, as you know, Mr. Chairman, the mandate was up for renewal every 2 or 3 months, although the latest renewal was for 6 months. It expires July 19. So that day is coming upon us.

We have stated clearly since 1978 that we believe UNIFIL has been indispensable, provided they have the blessing and invitation of the Government of Lebanon. Consequently, in the past two or three extensions of the mandate, Lebanon has sought strongly to retain the presence of UNIFIL. What the final outcome will be with UNIFIL we do not know. It is part of the negotiations that are going on right now between Israel and Lebanon. Of course, we participate very actively in that through Phil Habib. Our view, though, and we know the Secretary General's view, is that their mandate is the best answer that we have right now for peace and stability in Southern Lebanon.

SEPTEMBER CONCLUSION OF REASSESSMENT PROGRAM

Senator **Laxalt**. I rather agree. I think most of the members of the subcommittee would as well.

I think that pretty much takes care of what we can do this morning. Again, I congratulate you on the progress you are making on this overall evaluation. We have just not been able to secure enough data to determine whether or not the extent of our participation in international development organizations is worth it. You have seized the initiative there. We appreciate that. In September, as I say, when this information becomes available, we will look forward to examining it with great interest.

Mr. **Newell**. We commit to doing it.

Senator **Laxalt**. Thank you very kindly. We appreciate all of you coming.

Mr. **Newell**. Thank you very much.

SUBCOMMITTEE RECESS

Senator **Laxalt**. The committee will recess until 8:30 a.m., April 26, when we will hear from the Small Business Administration, the Marine Mammal Commission, and the National Oceanic and Atmospheric Administration. The hearings will be chaired by the eminent Senator from Connecticut, Senator Lowell Weicker.

[Whereupon, at 11:30 a.m., Thursday, April 21, the subcommittee was recessed, to reconvene at 8:30 a.m., Tuesday, April 26, 1983.]

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1984

TUESDAY, APRIL 26, 1983

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 9:30 a.m., in room S–146, the Capitol, Hon. Lowell P. Weicker, Jr. presiding.

Present: Senators Weicker, Andrews and Stennis.

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

STATEMENT OF JOHN V. BYRNE, ADMINISTRATOR, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

ACCOMPANIED BY:

ANTHONY J. CALIO, DEPUTY ADMINISTRATOR
JAMES W. WINCHESTER, ASSOCIATE ADMINISTRATOR
WILLIAM H. STEVENSON, DEPUTY ASSISTANT ADMINISTRATOR, NATIONAL MARINE FISHERIES SERVICE
RICHARD E. HALLGREN, ACTING ASSISTANT ADMINISTRATOR, NATIONAL WEATHER SERVICE
HAROLD W. YATES, ACTING DEPUTY FOR SATELLITE, NATIONAL ENVIRONMENTAL SATELLITE DATA AND INFORMATION SERVICE
NED A. OSTENSO, ACTING ASSISTANT ADMINISTRATOR, OFFICE OF OCEANIC AND ATMOSPHERIC RESEARCH
WILLIAM MATUSZESKI, ACTING DEPUTY ASSISTANT ADMINISTRATOR, NATIONAL OCEAN SERVICE
JOHN J. CAREY, DIRECTOR, OFFICE OF BUDGET AND FINANCE
JAMES SMITH, NOAA BUDGET OFFICER
NANCY RICHARDS, DEPARTMENT OF COMMERCE, DIRECTOR, OFFICE OF BUDGET

OPENING STATEMENT OF SENATOR WEICKER

Senator WEICKER. This morning the subcommittee meets to hear testimony from the National Oceanic and Atmospheric Administration on its fiscal year 1984 budget proposal.

I cannot help but note with regret that for the third year in a row the administration proposes drastic reductions in oceans-related research and development. The proposed 37-percent cut in funding for fisheries programs combined with a 40-percent cut in other oceans and coastal activities would add up to an $85 million loss for NOAA's oceans programs. To make cuts of this magnitude would be, in effect, to write off the great potential the oceans have for feeding our people and helping to power our economy.

The passage of the Fishery Conservation and Management Act of 1976 was a clear statement to the world of our commitment to wise management of our valuable marine resources. At that time, foreign fishing accounted for 62 percent of the total commercial catch in our waters. It is sad to say, that figure has been reduced by less than 1 percentage point in each of the last 7 years. More than half of the seafood caught in our waters is still accounted for by foreign fleets, and three-fourths of the foreign catch is caught by the Japanese.

It strikes me as both ironic and wrong that we see energies and dollars expended to counter Japanese competition where cars and computers are concerned while the administration proposes to cut by more than a third the small amount we are spending to reclaim the bounty of our own waters.

In like manner, the administration proposes to cut 66 positions and $5 million from NOAA's aquaculture programs. Far from a Jules Verne fantasy, aquaculture is a fact and one that promises to relieve world food problems in the future. With soil erosion, land conversion, and economic pressures exacting an ever-higher toll on American agriculture, ocean-based farming must be developed to take up the slack.

Current research involves selective breeding of commercially important species of shellfish as well as ways to combat hatchery disease problems. Private sector involvement in aquaculture is to be expected and encouraged, but there will remain substantial areas for basic research that only NOAA will be willing and able to conduct.

IMPORTANCE OF OCEAN RESOURCES

Already we have seen what the seas have to offer us in the way of oil and gas resources, so long as strict precautions are taken to prevent pollution. Likewise, deep seabed mining would help relieve U.S. dependence on foreign sources for strategic minerals like manganese and cobalt. Although commercial mining is still a ways off, now is the time to conduct the initial baseline studies. At the very least, further research is needed to gage the environmental impact of mining and to develop technologies to minimize this impact.

In short, the potential of the oceans as well as the pressures placed upon them have never been so great, and they will be even greater tomorrow. In the face of administration indifference and outright hostility, Congress must maintain its commitment to the oceans and to the positive contributions they can make to our future.

Now, first, let me indicate to you that it is a great pleasure, John, to have you here, and, I might add, a great pleasure to have worked and to work with you over the years. I look forward to more of it in the future. I think you are a great credit to NOAA and to the ocean and atmospheric programs this country has. I feel very confident that this agency is in your hands.

Second, we have a familiar face missing this morning, one who, as you know, has been a great source of strength to me, Bob Wickland, over the years, whose impact was most felt on the ocean programs and funding. Bob has gone on to the private sector. Kevin McCarthy I have in his place, who has been working with NOAA's hydrolab project. Kevin will be substituting in the sense of what Bob used to do.

Last, I do not want—and I don't know if NOAA is representing the administration today—but certainly I don't think we want any confrontations with the administration. I feel confident that these matters can be worked out with the Secretary of Commerce. I have already had a couple of preliminary words with him as to my various priorities and enthusiasms. I think they can be worked out.

But I think that it is terribly important for us all to recognize right now the crucial role that NOAA is going to play in the future. What I am talking about is not a dream of mine or what I would like to see. Every other advanced nation in the world, or every other nation that cares to be advanced, is investing big, big bucks in this area. Now, it is only a question whether or not we are going to be our own masters insofar as our compatibility and control of nature is concerned and our own masters insofar as the position the United States holds vis-a-vis other nations of the world relative to an understanding of the oceans and the atmosphere.

I cannot think of any greater priority at the present time for this agency, not just in terms of its energy and its food but also in terms of how it is perceived by other nations of the world. And also, the role that we intend to play.

So I make these opening comments having in my opening statement indicated what I consider to be the inadequacies of the budget, but hoping that in a spirit of good will and recognition of where we should be that these matters can be ironed out.

Senator Stennis, do you have any opening statement to make at this point?

Senator STENNIS. I appreciate being here. I am glad to be here.

Senator WEICKER. You are blessed with two University of Virginia law graduates. Right?

Senator STENNIS. Yes.

Senator WEICKER. Whether we have done well with those degrees over the years only history will tell.

In any event, John, good to have you here. Why don't you introduce your colleagues.

Senator STENNIS. We stick together on that, and here, too.

Senator WEICKER. I hope so.

Why don't you go ahead and introduce your colleagues. Your statement will be included in the record in its entirety. You may proceed in any way that is comfortable to you.

STATEMENT OF JOHN V. BYRNE

Mr. BYRNE. Thank you very much. I would like to introduce the people with me. I would start at my right. John Carey with our Budget Office. Next to me on the right is Tony Calio, who is the

Deputy Administrator of NOAA. On my left is Jim Smith, who is also with the Budget Office. Jim Winchester, who is the Associate Administrator of NOAA. Next to him is Nancy Richards, who is with the department's budget office.

We do have a statement which has been submitted for the record.

[The statement follows:]

PREPARED STATEMENT OF JOHN V. BYRNE
ADMINISTRATOR
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Mr. Chairman and Members of the Committee:

I am pleased to have the opportunity to appear before you in support of the 1984 budget request for the National Oceanic and Atmospheric Administration (NOAA). The total budget request is $843,172,000; however, we have identified $43,372,000 from other sources to reduce the appropriation request to $799,800,000. These funds will allow NOAA to carry out mandated responsibilities and support high-priority initiatives.

Last year I testified that organizational and planning changes in NOAA would permit improved quality of services and reduced spending. Since then, we have made significant strides toward attaining these goals. Major accomplishments include reorganization of NOAA management, major revisions in the NOAA budget structure, and the consolidation of certain administrative functions within the Department. I believe that with these changes, NOAA is now better prepared to meet its mandated responsibilities and future challenges at a lower cost to taxpayers.

The reorganization of NOAA's management structure is now in effect. Five line offices have been established -- the National Ocean Service; National Weather Service; National Marine Fisheries Service; National Environmental Satellite, Data and Information Service; and the Office of Oceanic and Atmospheric Research. The significant changes include merging the National Earth Satellite Service and the Environmental Data and Information Service to form the National Environmental Satellite, Data and Information Service (NESDIS); and the merging of the Office of Coastal Zone Management with the National Ocean Survey to form the core of the National Ocean Service (NOS); the establishment of the National Weather Service (NWS) as a separate Line Office. National Ocean Service also includes the Offices of Marine Pollution Assessment, Ocean Minerals and Energy, and Ocean Technology and Engineering Services.

For the past year, NOAA, in cooperation with the Department, OMB and relevant Congressional committees, has worked to establish a new budget structure. The old structure was unnecessarily complex; it was difficult to reference and, often, did not reflect the way programs were being managed. The old structure did not lend itself to meaningful crosscut analysis and lacked a clear means for establishing accountability. The new structure reduces the number of budget activities from 18 to 5, subactivities from 48 to 17, and line items from 147 to 63. We have found the new structure to be more useful as a planning and management tool, enabling us to better reflect NOAA's priorities and future program directions. This has been accomplished without any significant loss of detail. The 1984 budget request is presented in this new format and we hope that the committee will find the new structure to be more helpful in understanding our request.

A cooperative effort between NOAA and the Department to reduce overlapping or unnecessary administrative support functions has been fruitful. Without loss in necessary services and efficiency, NOAA has identified substantial savings which can be achieved through management consolidations and the elimination of marginal services. These efforts will be addressed in the Departmental hearing, and I fully support the concept of centralizing and streamlining administrative functions where economically feasible.

Before reviewing our request by major program activity, I would like to touch upon certain technical aspects of the budget.

FINANCING

The $43,372,000 in financing offsets that I referred to earlier is made up of three parts: a transfer of $31,500,000 from the Saltonstall-Kennedy Fund (SK); a transfer of $8,907,000 from the Coastal Energy Impact Fund (CEIF); and the deferral of $2,965,000 for 1983 to 1984 associated with an ADP procurement item. The S/K funds are not being requested to support fisheries development and promotion activities, because these are inherently a private sector responsibility and thus are more appropriately carried out by industry. The CEIP funds represent receipts of principal and interest from prior government loans. I believe that both the S/K and CEIP funds can best be put to use by offsetting a portion of the funding requirements for NOAA in 1984. Legislation will be proposed to allow for the transfer of S/K funds. The deferral of $2,965,000 for the procurement of an ERL computer will have no effect on program operations.

REPROGRAMMING

As you know, The reprogramming request included in our budget to cover increased pay costs and other unfunded items was disapproved by the Senate Appropriations Subcommittee with instructions to resubmit the request with a different source of funding identified. A revised proposal is being considered. A separate reprogramming action for the Aviation Weather program is also being prepared. As you know Congress did not provide funding in 1983 for this essential service pending completion of a Federal Aviation Administration (FAA)/NWS study.

SUPPLEMENTALS

NOAA is requesting a supplemental of $2,000,000 to be derived from a transfer from the Construction account to cover remaining unfunded pay costs, and a $20,000,000 supplemental for the Pribilof Islands. The supplemental appropriation request for the Pribilof Islands will provide the necessary capital to help the Aleuts in the transition to a self-sustaining economy, and also eliminate the need for continued annual appropriations by the Federal Government. Legislation will be proposed to transfer responsibility for the conduct of the fur-seal harvest to the native population. NOAA will continue to conduct research as required under the Fur Seal Act and meet all treaty obligations.

RESCISSIONS AND DEFERRALS

A rescission of $2,000,000 and a deferral of $3,000,000 are proposed in the Construction account. Construction costs for the Western Regional Center (WRC) in Seattle, Washington, have been less than anticipated. As a result: $2,000,000 is proposed for deferral pending enactment of a pay supplemental transferring these funds to the Operations, Research and Facilities account; $1,000,000 is proposed for deferral to continue WRC construction in 1984; and $2,000,000 no longer required for completion of certain planned construction at the WRC is proposed for rescission.

1984 Request

Under the new budget structure, NOAA programs are grouped into five major areas: (1) Ocean and Coastal programs; (2) Marine Fishery Resource programs; (3) Atmospheric programs; (4) Satellite and Environmental Data and Information services; and (5) Program Support. I would like to highlight some of the more significant program changes in each of these areas for 1984. A great deal of time and effort went into the decision-making process that produced this budget request, and I am satisfied that NOAA will be more than capable of fulfilling its Federal responsibilities in 1984 and beyond.

OCEAN AND COASTAL PROGRAMS

A program level of $117,125,000 is requested for ocean and coastal activities.

The Coastal Zone Management program will be continued under the Ocean and Coastal Programs activity in the ORF appropriation. This program has been successful, and the states and territories have assumed the administrative functions of their coastal programs. With completion of the phase-out of the state grants program, the remaining administrative and sanctuary programs can best be managed under the new National Ocean Services organization.

The Sea Grant program, which has achieved its original goal of encouraging the academic community to develop expertise in marine research, will be terminated as a Federally-funded program; since we believe this activity should be directly supported by the interests it serves. However, I am confident that sea grants will continue in the academic community through alternate funding sources from both private and government programs.

Several ocean research and assessment programs are being proposed for reduction and termination. These programs have either fulfilled their original goals, succeeded in providing a sufficient base of knowledge, reached a stage where closely-related efforts are being conducted by other Federal agencies, or as in the case of deep-seabed mining, run into extensive delays due to uncertainties surrounding future international legal regimes. We will, however, continue ocean research to promote health and safety. Further, we are requesting an increase of $2,500,000 for U.S. participation in the international Ocean-Atmosphere Climatic Interaction Studies (OACIS) which could lead to prediction of short-term regional climate changes over North America.

We are requesting higher user fees for nautical and aeronautical charts, and for tide and current products. These products and services benefit a specific population, so their costs should not be borne by the general taxpayer. Our proposal has been revised since last year to move more gradually to recover the cost of these programs. We will be evaluating progress annually and discussing the results with this committee.

MARINE FISHERY RESOURCE PROGRAMS

For fishery activities, a program level of $108,244,000 is requested. This amount includes $12,000,000 for the Foreign Fishing Observer Fund; $1,800,000 for the Fishermen's Guaranty Fund; $250,000 for the Fishermen's Contingency Fund; and $1,750,000 for the Fishing Vessel and Gear Damage Compensation Fund.

Changes in ORF programs include savings of $54,047,000 by reducing or terminating programs which do not directly support the NMFS management of living marine resources, and by phasing out programs which benefit specific populations or regions of the country, or should be conducted by the private sector and State and local governments. Considerable savings also result from our effort to streamline NMFS organization, allowing us to reduce unnecessary overhead costs. As we are doing throughout NOAA, we will focus fisheries programs on continuing essential research, products, and services.

Information collection and analyses will focus on essential fishery and protected species, stock assessment services, and catch-data and industry economic information. We also believe we can substitute charter ships for surveys and other research on a cost-effective basis. We have also identified and terminated resource information activities which were excessive and not required for management decision making.

Our conservation and management programs will focus on implementing management regimes for fisheries with the highest priority. We will continue to emphasize regulatory reform. We are working with the Regional Management Councils to determine which fisheries should be managed through regulation, which fishery management plans can be consolidated and how multi-year plans can be developed and improved. These actions will reduce the number of regulations and increase efficiency. We will also continue our basic management programs for the protection of marine mammals and endangered species; however, we expect to realize savings by strengthening our partnership with the states. As part of our effort to reduce Federal funding in areas where the program responsibility resides with the states, we are proposing to initiate a two-year-phase-out of Federal financial support for the operation and maintenance of the Columbia River hatcheries. Alternative regional funding sources to support these hatcheries are being explored.

Our state and industry programs will shift their focus to become catalysts for private sector initiatives. We propose to maintain a core program effort and expertise to support this catalytic function in foreign and domestic market expansion, technological innovation, and maintenance of product quality and safety standards. We will also continue certain activities such as international trade negotiations, export marketing, and certain product quality and safety functions.

As part of the government-wide effort to increase the amount of private credit available to business, no commitments to guarantee loans under the Federal Ship Financing Fund will be made in 1984. The fishing industry will benefit more from the Administration's effort to stabilize financial markets, reduce interest rates, eliminate burdensome regulations and lower inflation than from direct Federal assistance. Furthermore, we will continue to assist the fishing industry through our tax incentive programs such as the Capital Construction Fund.

ATMOSPHERIC PROGRAMS

A program level of $309,497,000 is requested for our atmospheric programs.

In the public warning and forecast services, savings will be realized primarily through consolidation of programmatic and administrative services, and through the curtailment of programs that benefit specific user-groups.

Major consolidations include the merging of the Pacific Region Headquarters with the Alaska Region Headquarters at Anchorage, Alaska, and the augmentation of the staffs at the Eastern and Central Region Headquarters to assume the managerial, administrative and engineering responsibilities of the Southern Region. Others include the conversion of eight Weather Service Forecast Offices (WSFOs) to Weather Service Offices; key forecast and warning services will continue. These consolidations will streamline the administrative and managerial functions of the NWS without sacrificing weather services.

The NWS will continue to provide generalized public-service weather forecasts, but will reduce or discontinue dedicated services that benefit specific user-groups, such as the agricultural weather, fruit-frost, and fire-weather programs.

An increase of two positions and $5,700,000 is proposed for the Next Generation Weather Radar (NEXRAD) program. These resources will be used to continue a competitive validation phase, support algorithm development, and complete radar site-surveys and facilities planning. The Department of Defense and the Federal Aviation Administration are requesting corresponding program increases to fund their share of the 1984 NEXRAD effort.

In the atmospheric and hydrological research area, another increase of eight positions and $2,000,000 is proposed for severe-weather research. NOAA is committed to providing essential services that protect life and property. These resources will be used to capitalize on newly developed understanding of the processes that generate severe weather such as flash floods, paralyzing snowfalls and tornadoes. NOAA estimates that over a billion dollars and several hundred lives can be saved every year with improved weather forecasts and warnings. Several program areas in meteorological and atmospheric climate research, and solar-terrestrial services and research, will be reduced. In these cases where alternative funding sources are available, research is essentially complete or the program is questionable as a NOAA responsibility.

SATELLITE AND ENVIRONMENTAL DATA AND INFORMATION SERVICES

A program level of $212,953,000 is requested for the satellite and environmental data and information services.

Our proposal for 1984 is to maintain and improve the two-GOES operational system, reduce the two-polar to a one-polar system, and increase the quantity of LANDSAT Thematic Mapper images.

For the GOES system, an increase of $20,488,000 is proposed to maintain the two-satellite system and to improve the data collected for the NOAA weather forecast and warning service with the use of the VISSR Atmospheric Sounder (VAS). The capability of the VAS to provide much of the data needed for more comprehensive and timely atmospheric observations has been demonstrated. With this increase, the VAS will be the remote-sensing instrument of the GOES system for the remainder of this decade.

For the polar-orbiting system, a savings of $38 million in 1983 and $21 million in 1984 will be realized by converting to a one-polar system modified for near-noon orbiting. Proposed launches for this system will be every 18 months. We are also requesting an increase of $1,000,000 to modify the polar-orbiting satellites to enable them to function in an orbit whose equatorial-crossing time is nearer to noon. This modification will improve the timeliness of polar sounding-data in the one-polar system.

For the LANDSAT system, an increase of $9,837,000 is proposed to improve the thematic mapper (TM) data processing and to reimburse NASA for the storage and testing of the LANDSAT D prime spacecraft until the fourth quarter of 1985. The LANDSAT system is operating on a user-fee basis and according to the demand from other Federal agencies, state and_local governments and the private sector. The increase, to be fully recovered through user fees, will allow for a significant increase in the number of TM scenes processed each day. The high-resolution TM data is useful for agricultural crop assessments, population-growth monitoring, geological analysis related to oil and mineral extraction, pollution appraisal, and numerous other applications.

Seven Satellite Field Service Stations (SFSSs) will be consolidated with the NWS Weather Service Forecast Offices at which they are colocated. Advances in technology and improved skill in using satellite information have made the SFSSs unnecessary. Other reductions include replacement of photo-processing services with electronic data transmission, elimination of one-GOES spacecraft from current procurement, reduction of projected estimates for ground systems in 1983, and curtailment of less-critical data and information services. These actions will produce a savings of $15,093,000.

PROGRAM SUPPORT

A program level of $95,353,000 is requested for the program support services.

As part of our effort to streamline administrative and management functions, we are reassigning and consolidating management and support functions throughout NOAA's administrative structure. This exercise has produced savings of 301 positions and $8,503,000.

We are also proposing the termination of the National Advisory Committee on the Oceans and Atmosphere (NACOA), since its functions are covered by other Federal agencies, or could be performed by ad hoc committees.

Our attempts to charter ship-time, tighten the scheduling of NOAA vessels for in-house work, and deactivate vessels not fully utilized have also yielded significant savings in the amount of $10,958,000. An additional $4,338,000 is requested in the Fisheries budget for charter of ship time or for selective use of NMFS fishing-research vessels when charters are not available.

CONCLUSION

In summary, I would like to say that I believe our budget represents a balanced approach maintaining essential services in light of the need to exercise fiscal restraint. This budget will result in many changes from the way we have operated in the past, but these are changes for the better -- changes that will make NOAA more efficient in meeting our mandated responsibilities. I am confident that NOAA has a bright future and I am pleased that we can contribute to the national economic recovery.

This concludes my statement. I will be most happy to respond to questions.

ACTIVITIES IN THE PAST YEAR

Mr. BYRNE. I think rather than review that, as we normally do, I might just say a few comments and then we can go on to the things that are of greater concern to you.

During the past year there have been a number of things that have taken place with respect to NOAA. They have occupied a great deal of our attention.

We have attempted to enhance the focus that NOAA has on oceanic activities. One way of doing this was to go through reorganization of the administrative structure of the agency. This has resulted in essentially five major components: the National Ocean Service, in which we have brought together all of the ocean activities of NOAA; National Weather Service; the National Marine Fisheries Service; we have combined the satellite operation with our data information activities and created a National Environmental Satellite Data and Information Service,. and finally, we have an Office of Oceanic and Atmospheric Research, which conducts research which supports all of the other activities which are focused on service.

The one new thing which we are creating this year, again to bring added focus to our ocean service, is a prototype, if you might call it that, from an ocean service center which will be located in Seattle. This will be the first of what we hope to be several ocean service centers around the country in which the activities, all of the activities of NOAA which focus on oceans are brought together in one place, so that those people who use the oceans can go to one place and find out everything that we know or that we can predict about the ocean.

The first of those will start in Seattle and should open sometime in the summer. We are optimistic that we will be able to initiate two more during this calendar year. Then, looking ahead to the future, we envision a series of ocean service centers located along the coast that will provide the kinds of services that those people who can best use the ocean really need.

In addition to the reorganization, we have also restructured the budget, and we believe that at least from our perspective the new budget structure is a much simpler one. It is a much more meaningful one and in fact makes it much easier——

Senator WEICKER. John, just one second.

[Brief recess.]

Senator WEICKER. I am sorry. Go right ahead.

Mr. BYRNE. The new budget structure, we think, is much streamlined and should make it easier for all of us in dealing with the budget.

I think other than that, those are the only comments I would make, other than to say that we share with you your feeling about the ocean and the importance of the ocean. We have, under these times of restricted financial assets, attempted to provide a budget which enables us to carry out those things which must be carried out with respect to the atmosphere and the ocean but at the same time enables us to make our contribution to trim back on the Federal budget. We do recognize the importance of these issues and have, I think, worked very hard to find ways to be both economical and at the same time carry out the things that need to be carried out.

We would be pleased to attempt to answer any questions you may have.

IMPACT OF PROPOSED TRADE DEPARTMENT

Senator **Weicker**. All right. I think what I will do is just go on a simple basis of 5 minutes and then turn it right over to my friend from Mississippi for whatever questions or however long he wants to proceed.

On Sunday the administration announced a proposal to form a new cabinet-level department which would encompass the trade functions currently performed by the U.S. trade representative and the Departments of Commerce, Defense, Treasury, and State.

If a new Department of International Trade were formed, what would happen to NOAA?

Mr. **Byrne**. I don't think any decision has been made on this at this time. Clearly there would be some adjustment necessary, and I think we are all aware of the sorts of options that might exist. But as far as I am aware, there has been no decision or focus on what would happen.

Senator **Weicker**. Do you think it would be desirable for NOAA to become an independent agency within the Federal structure?

Mr. **Byrne**. There are, I think, advantages and disadvantages. There are some advantages to being a part of a cabinet-level department. I am sure there are also many advantages to being independent. It is an issue which we have not given considerable thought to because the prospect of it hasn't been particularly bright over the last few years. I am sure it is something we will be giving added thought to in the weeks to come.

PROPOSED PAY RAISE SUPPLEMENTAL

Senator **Weicker**. The Commerce Department proposes a fiscal year 1983 pay raise supplemental for NOAA of $2 million, or 10 percent of its need of $19.7 million. Earlier this year the subcommittee rejected a reprograming request to fund the pay increase by eliminating one of the two polar orbiter weather satellites.

Does the Department have a new proposal in this area?

Mr. **Byrne**. There have been some alternatives that have been looked at. These are still in the discussion stage between the Department and the Office of Management and Budget. So it is a little premature to say exactly what we will be coming forward with, but we will be coming forward with something.

FINANCING AVIATION WEATHER COSTS

Senator **Weicker**. The fiscal year 1983 budget assumes a transfer of $26.7 million from the FAA Airport and Airway Trust Fund to NOAA to reimburse the National Weather Service for weather forecasts provided to pilots. The conference report accompanying the 1983 continuing resolution directed that a study be conducted by the Departments of Commerce and Transportation on the implementation of such a transfer.

Has the study been completed; and, if so, what are its recommendations?

Mr. BYRNE. The draft version of the study has been completed. This is under discussion now again between the Department and the Office of Management and Budget.

Senator, we really can't say the final report has been produced at this point, so it is again a little premature to tell you what the recommendations are because we really don't know yet either.

Senator WEICKER. Senator Stennis?

AGRICULTURAL WEATHER SERVICE

Senator STENNIS. Mr. Chairman, I am concerned about what I call the Weather Bureau for the Department. Would you give us information about the prospects there. I remember when I was a boy how we used that weather service. This is a real service, and at low cost, too. I know in your budget, you took it out. Are you familiar with that?

Mr. BYRNE. Yes.

Senator STENNIS. That wasn't your request, was it, or your Department's?

Mr. BYRNE. Well, we are attempting to make reductions in the budget. The things that we focused on were a number of the somewhat specialized services, recognizing that the weather service will continue to provide the fundamental background information and fundamental forecasts that can be used. So the program that was proposed for reduction, that which we refer to as the agricultural weather program, is one which takes that fundamental information and enhances it a slight degree to make it a specific use to a specific group of users.

Senator STENNIS. Well, they might have sold you on that idea, but you can't sell the farmers on it, I don't think. I am not a farmer, well I am a tree farmer, but I know we need this service. It is only $1 million that we are talking about here.

Mr. BYRNE. It is $1 million, yes.

Senator STENNIS. Well, Mr. Chairman, I want to call this to your special attention. We need it now more than ever before, with the cost of tractors, high-priced fertilizer and everything else involved in producing a crop. We need this information about the prospects of the weather conditions.

Mr. BYRNE. If I might, Senator, one of the things that we do when we look at these kinds of programs, when we make this sort of a decision, is to attempt to determine which of these activities could be picked up by the private sector using the fundamental information that the weather service provides and still provide that particular service, but to do it at a reasonable cost to the farmer using private industry as the carrier.

Senator STENNIS. I don't know, you spoiled them. You spoiled us. We want to keep this service. I am going to follow this up.

BAY ST. LOUIS FACILITY

We are mighty proud of your activities down in Bay St. Louis, Miss. I don't know whether you have much to do with that or not. NOAA came there to that space facility, right there on the waterfront, the Gulf of Mexico. Now you are talking about transferring all of their procurement to Kansas City I believe it is, and setting up regional administration.

What is that going to do down there at Bay St. Louis, Miss. where we really made room for you?

Mr. **Byrne**. We are still there, Senator.

Senator **Stennis**. I know you are still there.

Mr. **Byrne**. We think the Bay St. Louis facility is one of our real bright spots. The data buoy program we have there, as you know, is essential to our weather program and to safety at sea.

Senator **Stennis**. That is a fine statement. Let's leave the procurement, what little there is now, there with the good work you are doing.

Mr. **Byrne**. I understand what you are saying. [Laughter.]

Senator **Stennis**. That is a small matter to you, money-wise, but it means a great deal to us. I understand you. I appreciate the comment about Bay St. Louis. We ought to have that cut out and framed. [Laughter.]

I have a statement here, Mr. Chairman, I would like to file for the record.

Do you want to say something favorable now about my side, Mr. Byrne? [Laughter.]

Mr. **Byrne**. Well, I haven't seen your statement, Senator, but I am sure it measures up to the fine things that are going on in Bay St. Louis. One of the things we have attempted to do with the Department is to take some of the rather routine administrative functions and centralize those and in this way to accomplish economies. I think that is one of the things you are referring to.

CENTRALIZATION OF ADMINISTRATIVE SERVICES

We have centralized these in three places so far, with the fourth one coming up; the first being Seattle, and then Boulder, and then Kansas City. I think you are referring to the procurement activities which might be focused at Kansas City.

Senator **Stennis**. That is right, yes.

Mr. **Byrne**. It is our hope, and I think our belief, that these services should be able to be provided without any particular loss of efficiency, but at the same time becoming overall more efficient for the Department of Commerce and resulting in some considerable savings.

At the point where this activity becomes a problem in terms of carrying out our programs, I can assure you that we speak very loud within the Department when that happens. It is our intent, however, to make sure that the whole function is effectively run. And, in fact, we have taken the lead in much of the centralization of these activities.

Senator **Stennis**. I don't want to hold you back in any way. Go with Godspeed. But we had to beg a little pinch of money out of the Appropriations Committee, this committee, to be spent back there by agencies who were looking for a home; you know, Federal agencies, rebuilding and looking.

Well, you people came in under that little invitation, you see. We get worldwide recognition now from the things you are doing. I want to keep it there, for you to keep it there. I want to guard it. We don't want to give it up. We feel like this procurement is a vital part of it. Now, you are about to change over to Kansas City that procurement.

Mr. **Byrne**. Just the administrative function.

Senator **Stennis**. Yes.

Mr. **Byrne**. I think the flag will still wave high at Bay St. Louis.

Senator **Stennis**. All right. But the thing that nurtures it, a lot of it, is this procurement. Will you look at that again and reconsider?

Mr. **Byrne**. Certainly. Yes, sir.

Senator **Stennis**. All right. I thank you very much. I want to be down there some time when you are there and your people are there and really go see more about it.

Mr. **Byrne**. Good.

Senator **Stennis**. All right. Thank you.

Mr. Chairman, I have a statement here.

Senator **Weicker**. We will include it in the record at this point.

[The statement follows:]

PREPARED STATEMENT OF HON. JOHN C. STENNIS

U.S. SENATOR FROM MISSISSIPPI

Mr. Chairman, I appreciate the opportunity to be at this hearing today and to hear testimony from these officials of the National Oceanic and Atmospheric Administration. The state of Mississippi has a great deal of interest in the activities of this agency, and for that reason, I am interested in their budget request and a summary of their projected activities for fiscal year 1984. I am particularly aware of some of their programs which require facilities and personnel within the state of Mississippi. One of these programs is a valuable program going on at the National Data Buoy Center in Bay St. Louis, Mississippi. The National Oceanic and Atmospheric Administration officials there are doing outstanding work and are particularly well known for their efficiency in the area of procurement.

Now I understand that in this whole system of regionalizing the Department of Commerce activities, this procurement authority may be removed from Bay St. Louis, where it can serve the best purpose, to Kansas City. At the same time that the authority is being moved to Kansas City, the personnel in charge of the authority would remain in Bay St. Louis, thus creating another bureaucratic level of procurement. All of this supposedly is in the name of efficiency. While I can understand and appreciate the efforts made by the Department of Commerce to become more efficient in their administration of various programs, I cannot understand why they would want to take an activity, specifically the procurement activity at the National Data Buoy Center, and create a more complex system of procurement.

Mr. Chairman, in light of this proposed change, I have a few additional questions that I would like responded to for the record.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

PROCUREMENT AT THE NATIONAL DATA BUOY OFFICE

Question. I would like to know specifically why this change in procurement activity is being proposed at this time. Can you show me that by making this change, the general public can be better served than they are presently being served?

Answer. Better administration of the government means more effective use of tax dollars and better service to the public. The Department of Commerce has implemented a number of changes over the past two years to improve its administrative services. One of the major changes we are making is to improve the administrative services to our field units. Such services include personnel, payroll, space management, procurement and others. We found that managers of programs in the field, while responsible for the administration of important programs, did not have sufficient control over administrative functions essential to carry out their program responsibilities. We also found that administrative services in the field were fragmented and inefficient.

Consequently, after a thorough review, we decided to delegate greater authority to our field managers and to reorganize to improve administrative services. In October 1982, the first Administrative Support Center was establishment in Seattle, Washington. The Center proved that it could provide effective administrative services at a lower cost to Commerce field offices in the western states. The Department is now establishing regional administrative support centers in other parts of the country. The Central Administrative Support Center (CASC) will begin operations in Kansas City on July 1, 1983 and will provide administrative support (including procurement) to all offices of the Department within a 15 state area (including Mississippi and the National Data Buoy Office (NDBO) in Bay St. Louis). We expect the same level of improved services as we have experienced in Seattle.

Question. Isn't it true that this Center has an outstanding procurement activity and, in fact, it so good that the procurement officer of that Center was chosen to coordinate the proposed procurement changes for the entire Kansas City region?

Answer. Mr. Joseph Oberkirch, the Director of Administration at Bay St. Louis, is a Journeyman Contract Negotiator with many years of contracting experience. He was chosen to assist in the proposed procurement changes. However, another employee was in charge. The administrative support centers will permit high caliber, experienced employees like Mr. Oberkirch to improve the quality of administrative services throughout larger regions.

Question. I understand further that the procurement officer at NDBO would remain in Bay St. Louis along with two assistants. However, the personnel positions, or slots, for these two assistants would be transferred to Kansas City. Why would their positions be changed to Kansas City if they are to physically remain in Bay St. Louis? How can NOAA's procurement activity be better under this type of arrangement?

Answer. The CASC has proposed that a satellite procurement office be established at the NDBO. The office will be able to continue the close coordination with the NDBO technical offices and will have the same procurement authorities as at present. The improvements will be two fold:

(1) The satellite office in Bay St. Louis will provide procurement support to other DOC offices at Bay St. Louis, Pascagoula, Mississippi, Slidell, Louisiana, and New Orleans. Not only will service to these other offices be improved, but the satellite office will be able to provide any necessary contracting support to the 1984 World Fair in New Orleans.

(2) The CASC will be available to provide technical guidance and to assist in the workload if necessary. This assistance will be particularly useful for unusually difficult contracts and when vacations, illnesses, surges in workload or other temporary conditions would otherwise delay procurement actions.

RESTORATION OF BUDGET CUTS

Senator **Weicker**. Thank you, Senator Stennis. When we sit down to review this, as I indicated in my opening statement, I think we are going to make some changes on the plus side as far as this particular budget is concerned. I would be more than glad to sit down with you and go over the Weather Service you referred to and any other problems you have.

Senator **Stennis**. Thank you very much.

Senator **Weicker**. I think you have always been a very good friend of this agency, both as applies to your farmers and also being a coastal State. Not only that, there is always the possibility, Senator Stennis, that some day you might be back in the majority and we want to get all the friends we can for NOAA. [Laughter.] I hope that day doesn't come. Naturally I have to speak for my side. But it is always good to have something in reserve, and you are it. [Laughter.]

Senator **Stennis**. I wasn't going to bring that up. [Laughter.]

Senator **Weicker**. John, the majority of the proposed cuts in NOAA's budget are concentrated in two activities: A $59 million reduction from the base level in ocean and coastal programs, and a $54.1 million reduction from the base in marine fishery resource programs.

I will tell you what I would like to do. I would like to defer this question because I understand Senator Andrews has time constraints. Senator, why don't you go right ahead with your questions.

CONTRACTING OUT OF WEATHER SERVICE

Senator **Andrews**. You are awfully nice, Mr. Chairman.

My concerns, of course, concern the plans for the Weather Service.

As I understand it, during the past 5 years NOAA has convened four blue-ribbon panels to study the National Weather Service. Each of these panels concluded that it would be neither feasible nor desirable to contract out the operations of the Weather Service.

The most recent of these studies was just completed last year. It concluded that, "The key to providing high levels of protection for the public and improved services to the economy is a strong central Federal weather service * * *"

Now, NOAA has undertaken still another study of the National Weather Service at a cost of $250,000 to the taxpayers of this Nation. As part of the study, the jobs of some 2,300 employees of the National Weather Service are being reviewed to determine whether they should be abolished and whether the duties of these employees should be contracted out to the private sector.

If this latest scheme is allowed to go forward, I understand that two of the three National Weather Service offices in North Dakota reportedly would be abolished and approximately one-third of all the NOAA employees in our State would lose their jobs.

As a member of the Appropriations and Budget Committees, I yield to no one in my support for efforts to bring down our Nation's budget deficits. I know the chairman here, Mr. Weicker, and certainly our colleague from Mississippi, Mr. Stennis, join me in that feeling. But it seems to me that those of you in NOAA and the National Weather Service who are making these decisions have little or no awareness or concern for the devastating impact of your decisions on the morale of weather service employees and the delivery of weather services.

My State of North Dakota experiences some of the most extreme weather conditions anywhere in the United States. We have among the most complex flood problems of any State. If you take all of this and add to it the fact that North Dakota is an agricultural State, weather is extremely important to all the farmers and other citizens of our State.

I have serious doubts that the current level of weather services provided in North Dakota can be continued if these essential responsibilities are contracted out because the experience that our State's weather service employees have would be lost.

It seems to me that you could have been a lot more forthcoming in notifying the Congress and this Senator in particular of your plans. So I might suggest, Mr. Chairman, that what we need here is a little better notification to the public and the Congress as well as a requirement that no weather stations be closed unless the public has first had an opportunity to comment.

The activities of NOAA and the National Weather Service touch all of our lives. I do not believe we can afford to permit such valuable programs, which include, among other things, agricultural weather services and weather modification research and development, to be destroyed.

STATUS OF NORTH DAKOTA WEATHER STATIONS

Senator **ANDREWS**. I would like to know whether my understanding is correct, that you are proposing to cut down our weather facilities in Fargo and Williston and reduce the staff at the Bismarck Weather Bureau from 30 to 14. Is that true or is that just some rumor we got by some grapevine that grew in some harem-scarem way?

Mr. **BYRNE**. Can I have the numbers on Bismarck again?

Senator **ANDREWS**. To reduce the staff at the Bismarck Weather Bureau from 30 to 14 and shut down the Weather Service facilities in Fargo and Williston.

Mr. **BYRNE**. My understanding, Senator, is that those conclusions are not correct, that we do not at this time have any plan to close out Fargo or Williston or to reduce the station in Bismarck.

Senator **ANDREWS**. The headline of the Minot Daily News for March 17 reads, "OMB Reportedly Proposing Eliminating Offices at Fargo, Williston." It says:

> The Reagan Administration is reportedly considering eliminating National Weather Service offices in Fargo and Williston and replacing them with contracted services at an unknown level.

Senator **ANDREWS**. That is by the Associated Press.

Mr. **BYRNE**. We have had over the past several weeks, possibly months, considerable confusion over a number of things that are happening.

Senator **ANDREWS**. Welcome to the club. You know, we are confused, too, by these things.

Mr. **BYRNE**. I would like to at this time at least attempt to straighten some of that out.

There are several things which are going on which I think have come together and have been confused in the public's mind and, to a certain extent, in the minds of the press. You referred to two studies and tied them together as one.

We do have two activities underway which I think come together in that article. One is a study of the structure of the weather service. This is a contract study that is contracted out at about a quarter of a million dollars, as you have indicated. The contractor is Booz-Allen and Hamilton. It is designed to give us an idea of how the weather service might be restructured.

Setting that aside, the final report on that will be available some time this summer or shortly thereafter.

In addition, as part of an overall Federal activity to look at the kinds of functions which could be contracted out, we are going through a process that is commonly referred to as the A-76 process. This is an activity in which functions or specific activities are identified which could be contracted out. The studies are undertaken to determine whether or not it is in the best interest of the taxpayer to do that.

I think the two of these have been confused. It may be that as there is one A-76 study identified and initiated, that there is concern on the part of the employees, because in a sense some of their jobs may be on the line. But it is the activity or the function which is looked at.

I have told people to do these studies in an honest, forthright manner, and if it turns out that the Weather Service is the most efficient way to do it, and we think by and large in most cases that probably will be the case——

Senator ANDREWS. That is fine. But every time a new Administrator comes in you seem to have another study of the Weather Service. You have had five of them in about 5 years. They all come back basically with the same conclusion that you pointed out, which is essentially to leave things alone. Isn't that true?

Mr. BYRNE. I think that is true with respect to the actual forecasting, the actual observations, and so on. These are not the things which are focused on to a great extent in the A-76.

Senator ANDREWS. But it is a forecast and observation. If you shut down these two——

Mr. BYRNE. We have no intention of shutting them down. I don't know where that information came from.

Senator ANDREWS. That is, the Office of Management and Budget hasn't told you you should shut these down?

Mr. BYRNE. No, sir.

Senator ANDREWS. Where did the Associated Press get the story?

Mr. BYRNE. I am sorry; I really can't answer that. I can't speak for the Associated Press. We have assiduously attempted not to try to close any weather stations this time around in view of the experience we had 1 year ago in which we did identify some stations for closing.

Senator ANDREWS. Mr. Chairman, would it be a wise idea to put this Associated Press story in the record at this point so they would see where we are coming from?

Senator WEICKER. It certainly will be included in the record.

Senator ANDREWS. Why don't we put it in the record. This is the Minot Daily News of March 17.

[The information follows:]

[From the Minot (N. Dak.) Daily News, Thursday, Mar. 17, 1983]

OMB REPORTEDLY PROPOSING ELIMINATING OFFICES, AT FARGO, WILLISTON

The Reagan administration is reportedly considering eliminating National Weather Service offices in Fargo and Williston and replacing them with contracted services at an unknown level.

The tentative plan also calls for similar action at other Weather Service offices across the nation, KFGO in Fargo, N.D., reported Wednesday in a copyright story.

KFGO said it had obtained "administratively restricted documents" indicating the Federal Office of Management and Budget was tentatively proposing to cut all 14 employees at the Fargo weather bureau and all five at the Williston facility and to reduce the Bismarck weather bureau staff froom 30 to 14.

The documents indicate private business would take over those services, but they say nothing about how many people would replace those weather personnel, or about their training, according to KFGO. The OMB has requested reaction from other agencies and officials.

Rep. Byron Dorgan, D-N.D., took issue with the proposal.

"The kind of bureaucrats that make those decisions, I think, ought to be re-evaluated to see whether we probably shouldn't bring in some new people with a little clearer head," he said. "It sort of sounds like trading in your only cow to buy a milking machine.

"I don't think this makes any sense. It's a crazy scheme," he added.

Dorgan said, the proposal would leave the public without the kind of advance warning needed when severe weather is rolling across North Dakota.

"The weather information you're going to get is going to deteriorate, but the taxpayer is going to end up paying more," he predicted. "I am just convinced the weather information you will get will deteriorate when you see the government begin contracting for weather information in the private sector."

"There would be fewer people at the kinds of weather station posts that we have in North Dakota, and they would not be trained in the same manner," he said. "It would be a completely different kind of service."

Dorgan says a study by the Commerce Department shows it would cost more to contract for weather forecasting than is now the case. He added the Reagan administration seems obsessed with leasing various services to hold down expenses.

PUBLIC HEARINGS

Senator **Andrews**. Since you say you are not going to close down the Williston and Fargo stations, I would say that we probably have your assurance that there will be no reduction in service in these areas until at least the public has been notified and given an opportunity to present their views at the public hearings and have a great deal more input than we seem to be having on the stories that were emanating last month. Is that the assurance that we have?

Mr. **Byrne**. Absolutely. I would be pleased to sit down with you and work through it in detail, if you would like me to.

Senator **Andrews**. Well, Mr. Chairman, we kind of eliminated that one in a hurry. I better quit while I am ahead. I don't want to push this too far and say something wrong. [Laughter]

Senator **Weicker**. Senator, I am not so sure you are ahead. I think you are getting two straight answers from the Administrator. He is right; in other words, they are not closing them down. The service will go ahead and continue. But I think he has also put you on notice there is a process underway right now to go ahead and make a determination as to whether or not that couldn't take place or shouldn't take place in the future.

Senator **Andrews**. Do you think with your expertise in the field, Mr. Administrator, that this would be a wise move, to shut down stations such as this?

Mr. **Byrne**. Well, I think it would be inappropriate for me to say that without looking into it.

Senator **Andrews**. You mean as the Administrator of this you don't know the importance of those stations?

Mr. **Byrne**. I think the fact those stations are up and operating is an indication we think they are important and should continue.

COMMERCIAL ACTIVITIES

The A-76 studies—and I can't really say whether there are any that are focused at any of the three stations you mentioned. We would have to look at that to see just what we have proposed in our list of studies to take place. There may be some functions at those stations which, as a result of the A-76 study, would be determined to be more efficiently operated if they were handled by the private sector. I can't prejudge that. I don't know what the answer is on that. But we will certainly——

Senator **Andrews**. Handled by the private sector, you mean if I am out on the farm and I want to spray some of my crop with 2-4-D the next morning, what do I do, call Dial-A-Prayer, or how do I get my wind forecast for the next day?

Mr. **Byrne**. I think that the best way to do it would be to call the Weather Service.

Senator **Andrews**. You think they will still be there?

Mr. **Byrne**. Absolutely.

Senator **Andrews**. They will be there giving that kind of information, because they have forecasters on site?

Mr. **Byrne**. The forecast office, yes. They all do local forecasting.

Senator **Andrews**. I know.

Senator **Weicker**. My advice, Senator, because I feel there are going to be some fights coming up here on this budget, is to do all you can to generate support for your weather stations. I think that that support is going to be needed in the future. I think we are really dealing with some philosophical differences here, which I don't think the Administrator has as much to do with as does the administration.

Senator **Andrews**. I am afraid that is true.

Senator **Weicker**. I can speak for the ocean side, as you are speaking for the weather side. It is great to have the private sector pick up on the aquaculture, and the private sector has been into this. They did it in a big way back in the 1950's, 1960's, somewhere around there. They found out it wasn't commercially feasible and got out of it. They are not there. I have no reason to believe they will go diving back in there tomorrow if the Federal Government gets out. The same proposition is assumed so far as the weather is concerned; that is, that the private sector will pick up this service and it will be just as good. I don't think that is the case.

Senator **Andrews**. That is more of that Alice-in-Wonderland, looking-glass logic we keep getting, not from you but the Office of Management and Budget. The trouble is you have to dance sometimes to their tune. But let me assure my friend, the Senator from Connecticut, we have been together in these scrapes before and I suspect the Weather and Ocean Service will be a good cause for our joint efforts in the months to come. I want him to know if he hears any bit of information, even before the Associated Press gets it, let me know and I will be glad to join him on the budget and the appropriations side.

I thank you very much for giving me the opportunity this morning, Mr. Chairman.

Senator **Weicker**. Thank you, Senator.

Back to my initial question then, John.

OCEAN AND MARINE BUDGET REDUCTIONS

The majority of the proposed cuts in NOAA's budget are concentrated in two activities: a $59 million reduction from the base level in ocean and coastal programs and a $54.1 million reduction from the base in marine fishery resource programs. Why are these areas receiving the brunt of the cuts?

Mr. Byrne. I think in going through the budget activities there was no attempt to focus on any particular sector. But we looked at priorities across the agency and that is the way it sifted out. I am sure that you are aware that if I let my personal bias play the role, I would have oceans as a very high priority and that would not happen. But we attempt not to do that. We attempt to look at the priorities that we have as an overall agency. It turns out when the final score was in, that it did indicate the reductions you have indicated.

SEA GRANT REDUCTION

Senator Weicker. The sea grant program is again proposed for termination. How can this be justified when the program generates 40 percent in matching funds, provides funding for basic marine research essential to our national welfare, and generates over $200 million annually in economic activity?

Here is a program that spans the country. It involves the entire academic community, all the various scientific disciplines within that community. Just talk about getting the bang for the buck. I can't think of a better program. I am not talking about NOAA or the Commerce Department, but I mean anywhere in the Federal Government.

Mr. Byrne. I don't think any of us would indicate that we have anything but an assessment of success for the sea grant program. It has been an outstandingly successful program. The view of the administration is that because it has been successful and because it does focus on things that have a direct payoff to the private sector and to the commercial aspects of the country, that there is the opportunity for the private sector to pick up much of the support for that research. I think the very fact that sea grant has achieved the 40 to 50 percent match is an indication that that support is available.

When we look at total industrial support or total industrial activities that take place in the ocean, in multibillions of dollars, it appears to the administration that this is an area where we could achieve substantial support without Federal expense, in a sense being a part of the very success that you mentioned.

Senator Weicker. First of all, if this is the reasoning, then, to be utilized insofar as the elimination of this program, then I suggest we ought to eliminate NIH and all the various programs, eliminate the research programs, et cetera. I don't understand it, why this is being treated in this way.

I am not going to debate this at length, and I will tell you why I am not going to debate it at length, because there will be a sea grant program. I can assure you there is going to be a sea grant program. Look, if I were down to my last few dollars, I probably would still hold on to this one because of what we get out of it. It probably gets the most number of people involved, the most number of States and disciplines involved for the fewest dollars. It doesn't mean to say I am eliminating NOAA, but I am saying hypothetically as to the value in terms of a return and, most importantly, an involvement. Even with all of your people and resources, you can't generate this kind of activity for this amount of money. I don't think you can.

Let me get to the other point as far as the States are concerned. John, I hate to tell you but they are all flat right now and they aren't going to pick up that kind of program.

Mr. **Byrne**. I didn't mention States, Senator. I mentioned industry. I am fully aware of the problem the States are having. But we do see real industrial support developing for this program. This looks like an opportunity.

Senator **Weicker**. Senator Stennis?

Senator **Stennis**. I don't believe I can add anything, Mr. Chairman. Thank you.

UNDERSEA RESEARCH PROGRAM

Senator **Weicker**. The NOAA undersea research program is again proposed for termination. This would eliminate the four regional undersea research programs as well as NOAA's share of funding for the research submersible *Alvin*.

Wouldn't valuable research opportunities be lost to us without manned undersea research?

Mr. **Byrne**. I think there would be if the research stopped. Again, this is an area where we have looked for others to begin to pick up the support. With respect to *Alvin*, we will continue to support *Alvin*, but not in the same way we had done it or proposed doing it before. We would pick up *Alvin* in the programs that we are directly involved with and pay for the support of *Alvin*, our portion of the support of *Alvin*, through the programmatic phase that is available. That amounts to something on the order of $500,000 a year. But the centers themselves, the underwater facilities and so on, we would have to look for others to continue to operate those.

I would have to agree with you, Senator, that probably some research might slip by. But we would hope that that would be lower priority research. We will do what we can to make sure the transition takes place in a feasible fashion.

Senator **Weicker**. Well, I remember some years back, and this just crossed my mind so if I am off on my facts, anybody is free to correct me. It seems to me about a decade ago, maybe a little longer, when the space programs of the Soviet Union and the United States really went off in two different directions—I am talking decades ago, not the last decade—the Soviet program basically was an unmanned program and the U.S. space effort was a manned space effort. I will tell you why this comes to mind. I remember during my first election campaign for U.S. Senate in 1970 my opponent was saying to me, that the space program was a waste of money, why don't we do it like the Soviets. It was cheaper, and et cetera, et cetera. Well, there wasn't one person that believed that the Soviet effort was better than ours as an unmanned effort. Time has proven us out. Now the Soviet effort itself is a manned effort.

Now, to me, there is absolutely no difference as to understanding the ocean floor. I mean, you can sit there and use all the electronic gear you want and send cameras down to the bottom. Nothing substitutes for man's presence on that ocean floor.

Really, the figures associated with the effort by the United States of America are embarrassing. We are talking what, a million or two in the last couple of budgets that has been expended on this particular area? Can you give me the latest Japanese habitat facility? If I am not mistaken, it is being constructed now. Can somebody give me the cost of that facility?

Mr. **Byrne**. We can get that information.

Senator **Weicker**. Just so we can get a general idea of what we are talking about, would it be safe to say it certainly is at least in the area of, just this one facility, $50 million or so? It is that type of a facility. Am I correct?

Mr. **Ostenso**. It is a big number. I am not sure.

Senator **Weicker**. He says $20 million. I have heard higher than that. But in any event, it is substantial. The same holds true of other efforts in this area. Ours is just a pittance.

What have we budgeted for hydrolab for the last 2 fiscal years, which is our habitat?

Mr. **Byrne**. The whole program we are talking about is less than $4 million.

Senator **Weicker**. You are probably including in that the programs by U.S.C. and North Carolina.

Mr. **Byrne**. Yes. That is the entire program.

Senator **Weicker**. So the hydrolab itself each year for the last 2 fiscal years was what, $1 million?

Mr. **Byrne**. That would be a rough estimate.

Senator **Weicker**. $500,000, somewhere around there?

Mr. **Byrne**. Yes.

Senator **Weicker**. $500,000?

Mr. **Carey**. Yes.

Senator **Weicker**. $500,000. You ought to see what you got for your money, I might add. Before the U.S. Government took it over, let me tell you, talk about public baling wire going ahead and holding an apparatus together. With that $500,000, believe me, that is a luxurious looking facility compared to what it was. Yet, obviously it doesn't have the capabilities that we should have in the sense of the underwater research program. Yet now we want to eliminate these various programs. You are advocating what, the elimination of U.S.C.?

Mr. **Byrne**. The entire underwater research program.

Senator **Weicker**. The whole program. Who is going to do this?

Mr. **Byrne**. I don't have an answer for that, Senator.

UNDERSEA HABITAT ON WEST COAST

Senator **Weicker**. In 1981, the committee directed NOAA to spend $2.3 million for the construction and operation of an undersea habitat off the west coast in association with the University of Southern California. Why hasn't NOAA reprogramed funds to do this?

Mr. **Byrne**. I think the reprograming on that is in the system right now. As you are aware, they are having some difficulties with that particular site, that particular facility. But I think it is in progress.

[The following information was submitted subsequent to the hearing:]

REPROGRAMING FOR UNDERSEA RESEARCH

There is no reprograming for undersea research under consideration at this time.

Senator **WEICKER**. To give you an idea as to what has been accomplished by a few dollars and extraordinary dedication by a small number of people, from May 1978 through February 1983, NOAA's undersea habitat hydrolab ran a total of 62 scientific missions, of up to 8 days duration, with the participation of 181 different scientists. Now, if this is eliminated, then the United States—I am talking about the U.S. Government—will have no such facility available for marine scientists to live and work on the sea bottom.

Mr. **BYRNE**. I think that is correct. We are not sure if the Navy has any comparable facilities or not. But certainly the civil side does not.

COASTAL ZONE MANAGEMENT

Senator **WEICKER**. With coastal States running a combined budget deficit of $4.7 billion, is it realistic to expect them to pick up the full responsibility for coastal resource management?

Mr. **BYRNE**. We feel that in this stage of that particular program most of the coastal management plans have been approved and we are more in an operational mode in that particular activity. We will continue to monitor the degree to which the States follow those plans and so on, but we think the main expenditures are behind us in that particular program. So we see the reduction there as being one which is appropriate and one which can be carried out without any real sacrifice in the programmatic activity.

GREAT LAKES ENVIRONMENTAL RESEARCH LAB

Senator **WEICKER**. The Great Lakes contain 90 percent of North America's freshwater; and within their basin they contain one-eighth of the U.S. population, one-fifth of U.S. economic activity, and one-third of the hazardous wastes generated in the United States. Despite this, you are proposing to close the Great Lakes Environmental Research Lab and RIF 63 employees. What impact would this have on environmental research in the Great Lakes?

Mr. **BYRNE**. We anticipate that a certain amount of that research will be continued through the agencies and the universities in the area. NOAA will also continue a program of $.4 million in the Great Lakes, but not for that particular laboratory. Then, in addition, the Environmental Protection Agency also has an even higher expenditure level for research in the Great Lakes of about $83.7 million. So although I am sure there will be some changes and some shifts when the lab is finally closed, much of the research will continue.

AQUACULTURE

Senator Weicker. NOAA's aquaculture program is proposed for termination, resulting in the loss of 66 positions and the closure of the labs at Galveston, Tex.; Stuttgart, Ark.; Manchester, Wash.; and Little Port Walter, Alaska. The labs would be reduced at Milford, Conn.; Auke Bay, Alaska; and Newport, Oreg.

Given the fact that we had a trade deficit of $2.2 billion in edible fish products in 1982, doesn't it make sense for the Federal Government to provide the basic research necessary to develop a domestic industry?

Mr. Byrne. I think the position we are taking on this is that much of the research, much of the fundamental research necessary for aquaculture has already been done and that we are in a development stage now that is more appropriate for industry than it probably is for the Federal Government. That is the reason for the reduction in the activity in those particular sectors.

Senator Weicker. Well, John, I will go along with most of your scientific judgments because I am a layman and you are the scientist. But to say most of the basic work in aquaculture has been done, I don't even think we have gotten anywhere close to it. This is just an enormous area of potential for the United States—not only where the deficit is concerned but as far as the plus side is concerned.

I got back from a trip to Cuba recently. They are making enormous investments in the aquaculture area. They are enjoying some degree of success. But I think they, along with other nations—Japan, France, Italy, et cetera—are deeply involved in this.

Again, for the United States to back off from a solid commitment and hope the private sector picks it up I think is running a risk that will cost us many, many dollars in the future.

Senator Stennis, do you have any questions?

Senator Stennis. I believe not. Thank you.

ADMINISTRATIVE REDUCTIONS

Senator Weicker. During the previous Congress, we raised concerns regarding proposed cuts in administrative funds and personnel. Again this year the budget proposes a cut of 32 percent in personnel (319 of 1,000 positions) and $9,402,000—or 17 percent in administrative funds.

This reduction is proportionately larger than overall reductions in the NOAA budget. How are you going to run $800 million in programs with 681 administrative positions and to what extent are these reductions contingent upon approval of program cuts proposed in the budget?

Mr. Byrne. Most of them are directly tied to program cuts, I think, so that as a program is reduced, then the administrative support for the program would also be reduced.

Senator Weicker. Counsel suggested you might provide the committee with a list of those positions that are tied to program cuts so we have that.

Mr. Byrne. I would be pleased to.

[The information follows:]

ADMINISTRATIVE POSITIONS ASSOCIATED WITH PROGRAM REDUCTIONS

The proposed reduction of 311 positions and $8,851,000 in the line item Administration includes 273 positions and $7,851,000 of administrative overhead associated with the proposed program reductions. A reduction of 38 positions and $1 million are savings due to improvements in central filing, special personnel programs, inhouse graphics and visual services, and travel and transportation services.

Senator **WEICKER**. I have further questions for response to the record, John. But I think really what comes through loud and clear here is that far from a program that throws money away, the investments are made, be it on the weather side for the farmer or the waters for the fisherman, this money that is being spent comes back many-fold to this Nation.

This kind of a cut, if ever I can get a classic example, as I have been talking about the other committee I chair—the Health and Human Services Committee—has a certain appeal insofar as the bottom line is concerned for the year 1983 and for however it affects the budget. Let me tell you, you know where the cost is going to be paid. It is going to be paid 5 and 6 and 7 and 8 years out, and probably most of the cast of characters isn't even around here, to go ahead and shoulder the responsibility for the cost in the outyears.

I am well aware that there is nothing very spectacular and appealing for science moneys, be it for the atmosphere or for the oceans, but as a man of commonsense and recognizing what the world is doing around us, and also where our own people should be, I think it would be almost criminal for me to agree with the size cuts that are proposed in this administration's budget. I for one won't do it. Whether the committee is of the same mind, that is up to each individual Senator. But this could be devastating.

We have seen this now go on for a couple years. I think the time has come to get our heads together; and if indeed there is no place for this effort, if it can be accomplished by the States and private concerns, then let's just say so and do away with it. Let's have a national debate on the value of the oceans to this Nation and to our scientific efforts. But this piecemeal emasculation I want no part of.

Now, I repeat, we are talking about broad policy here. I don't mean to lay this at your doorstep. Obviously you have to make choices and get this placed on you. Again I want to repeat, I have always been impressed by the extraordinary dedication by not just you but all those in NOAA. But I am afraid at least as far as this chairman is concerned that I can't retreat any further. I think the whole program is at its Dunkirk at this stage of the game, and there is just nothing but water behind us, and this is it.

I would hope your staff could work with our staff as we try to formulate our ideas. I am not asking you to agree. That is up to the Congress, certainly, to go ahead and do that. But I think it is time for the Congress to go ahead and speak on the issue. I think the administration has made its position clear.

Senator **STENNIS**. I can't say how fortunate we are to hear your analysis of the situation, frankly. We have so many bills, we can't get to all of them. If you stay around you, you learn something.

Senator **WEICKER**. Sometimes. Sometimes, Senator.

Senator **STENNIS**. You are a real contribution

Senator **Weicker**. Thank you.

Thank you very much, gentlemen.

Mr. **Byrne**. Thank you.

Senator **Weicker**. Before moving on to SBA, we will submit additional questions which we will ask you to answer for the record.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR LAXALT

A-76

QUESTION:

What is the status of A-76 studies presently underway in NOAA? What is the level of impact on personnel? Dollar resources? Describe this A-76 review process.

ANSWER:

The current list of studies follows. The first new studies began in May 1983. The current studies involve 2,227 FTE's, with dollar resources of approximately $105M. The process is being conducted in accordance with OMB Circular A-76, which provides for a three-phase study. The phases are: a management efficiency study to determine the most cost effective method of in-house performance; development of the performance work statement, which describes the work to be performed; and development of the in-house cost based on the most efficient method of operation.

April 15, 1983

NOAA
A-76
Current List of Studies

Name of Activity	Location of Activity	Description of Activity	Approx. Number of FTEs	Date of Last Review	Review Date Start	Review Date End
NOAA Logistics Supply Center	Kansas City, MO	Provides warehousing, packaging, and issuing of equipment, publications, common use forms, and other supplies required for use throughout NOAA	30	-	12/81	11/83
General Metro Support Services	Rockville, MD	Provides local office & logistics support (except Proc) for NOAA activities in the Wash Metro Area	55	-	6/1/83	9/30/84
Library Services	Boulder, CO	Provides library and information services in the fields of interest of the Boulder, CO complex (MASC)	18	-	9/1/83	9/30/84
Supply Services	Boulder, CO	Provides supply management services (excluding procurement) for the MASC	34	-	9/1/83	9/30/84
Data Center Archival & ADP Services	Asheville, NC	Provides ADP, archival, and technical support services for NCC	150	-	5/1/83	9/30/84 1/
Library and Information Services	Rockville, MD	Provides library and information services for both NOAA & non-NOAA interests	28	-	5/1/83	9/30/84
Data Center Illustrator & ADP Operations	Washington, DC	Provides scientific illustration and ADP support services for NODC	22	-	5/1/83	9/30/84

NOAA
A-76
Current List of Studies

Name of Activity	Location of Activity	Description of Activity	Approx. Number of FTEs	Date of Last Review	Review Date Start	Review Date End
Data Center ADP Opers.	Boulder, CO	Provides centralized ADP and information services for NGSDC	11	-	5/1/83	9/30/84
Fishery Lab ADP Services (NW&AFC)	Seattle, WA	Provides ADP support for the Northwest and Alaska Fisheries Center, NMFS	17	-	5/1/83	9/30/84
Fishery Lab ADP Services (SEFC)	Miami, FL	Provides ADP support for the Southeast Fisheries Center, NMFS	19	-	5/1/83	9/30/84
Fishery Lab ADP Services (NEFC)	Woods Hole, MA	Provides ADP support for the Northeast Fisheries Center, NMFS	14	-	5/1/83	9/30/84
Fishery Lab ADP Services (SWFC)	LaJolla, CA	Provides ADP support for the Southwest Fisheries Center, NMFS	25	-	5/1/83	9/30/84
Fishery Lab Facilities Maintenance (NW&AFC)	Seattle, WA	Provides facilities maintenance support for the Northwest & Alaska Fisheries Center, NMFS	28	-	5/1/83	9/30/84
Operation of Ship Chapman	Seattle, WA	Operation and crew support for the NOAA vessel Chapman	12	7/32	7/85	7/86

NOAA
A-76
Current List of Studies

Name of Activity	Location of Activity	Description of Activity	Approx. Number of FTEs	Date of Last Review	Review Date Start	Review Date End
Airport Obstruction Surveys	Rockville, MD	Provides airport obstruction surveys and information for the FAA.	22	-	10/80	1/83 2/
Aeronautical Cartography	Silver Spring, MD	Constructs and maintains aeronautical charts and related publications to meet the requirements of civil-military aviation	208	-	5/1/83	9/30/84
Chart Reprod. & Distribution	Washington, DC & Riverdale, MD	Provides reproduction and distribution services for NOS aeronautical and nautical charts and related publications	194	-	5/1/83	9/30/84
Tides & Water Levels Branch	Rockville, MD	Determines requirements and provides direction and analysis for the tide and water level data collection program	55	-	5/1/83	9/30/84
Nautical Cartography	Rockville, MD	Constructs and maintains nautical charts, Coast Pilots, and other related marine publications	135	-	5/1/83	9/30/84
Geodetic Information Center	Rockville, MD	Collects, publishes and maintains information pertaining to the National Geodetic Network	45	-	5/1/83	9/30/84
Horizontal & Vertical Geodetic Network	Rockville, MD	Computes, adjusts, and evaluates horizontal & vertical control surveys to improve and maintain the National Network of Geodetic Control	73	-	5/1/83	9/30/84

NOAA
A-76
Current List of Studies

Name of Activity	Location of Activity	Description of Activity	Approx. Number of FTEs	Date of Last Review	Review Date Start	Review Date End
Marine Center Operations	Norfolk, VA	Provides operational & technical support (including ship operation) for all hydrographic, oceanographic, and marine resource activities at AMC	479	-	5/1/83	9/30/84
Circulatory Surveys	Rockville, MD	Plans and provides guidance for conducting circulatory (current) investigations, performs analysis & compiles and disseminates related data	55	-	5/1/83	9/30/84
Computer Operations	Princeton, NJ	Provides ADP support for the research activities conducted at GFDL	30	-	5/1/83	9/30/84
National Reconditioning Center	Kansas City, MO	Provides maintenance, reconditioning and quality control in support of the NWS technical equipment program	46	-	5/1/83	9/30/84 3/
Weather Service Regional Engineering Divs.	Nationwide	Provides engineering, facilities and instrumentation support to NWS field installations	80	-	5/1/83	9/30/84
Test & Evaluation Facility	Sterling, VA	Conducts and evaluates laboratory and field tests of meteorological instruments, and equipment and observational methods and procedures	39	-	5/1/83	9/30/84
Weather Chart Reproduction	Camp Springs, MD	Provides technical support and weather chart reproduction services for NWS and other weather interests	13	-	5/1/83	9/30/84

NOAA
A-76
Current List of Studies

	Name of Activity	Location of Activity	Description of Activity	Approx. Number of FTEs	Date of Last Review	Review Date Start	Review Date End
	Technical Svcs Engineering Div.	Silver Spring, MD	Provides a full spectrum of engineering support activities for the National Weather Service	88	-	5/1/83	9/30/84
	Communications Operations	Suitland, MD	Provides for the installation, operation, adjustment, and maintenance of communications equipment for NWS	40	-	5/1/83	9/30/84

1/ Includes "Data Entry" and "Operation of Computer Facilities" activities previously listed separately

2/ Action deferred pending resolution of "verification issue" (NOAA and FAA)

3/ Includes "Repair of Weather Equipment" and "Radiosonde Reconditioning" activities previously listed separately

QUESTION:

Is NOAA considering other positions for A-76 review? If so, what are they?

ANSWER:

Yes, NOAA anticipates studying additional functions such as fisheries publications, weather observations, and electronic technicians. An anticipated list of studies follows:

NOAA
A-76
Anticipated List of Studies

Name of Activity	Location of Activity	Description of Activity	Approx. Number of FTEs	Date of Last Review	Review Date Start	Review Date End
Admin. Support Center Supply Activities	Seattle, WA	Provides warehousing and supply support for 10 Western States including Alaska & Hawaii	7	-	5/1/83	10/1/83
Fishery Market News (Boston)	Boston, MA	Provides printing and distribution of fishery market news information	4	-	5/1/83	9/30/84
Fishery Market News (Gloucester)	Gloucester, MA	Provides printing and distribution of fishery market news information	2	-	5/1/83	9/30/84
Fishery Market News (New York)	New York, NY	Provides printing and distribution of fishery market news information	8	-	5/1/83	9/30/84
Fishery Market News (Terminal Is.)	Terminal Is., CA	Provides printing and distribution of fishery market news information	1	-	5/1/83	9/30/84
Fishery Market News (New Orleans)	New Orleans, LA	Provides printing and distribution of fishery market news information	4	-	5/1/83	9/30/84
Fishery Market News (Seattle)	Seattle, WA	Provides printing and distribution of fishery market news information	4	-	5/1/83	9/30/84

NOAA
A-76
Anticipated List of Studies

Name of Activity	Location of Activity	Description of Activity	Approx. Number of FTEs	Date of Last Review	Review Date Start	Review Date End
Fishery Publications (NW&AFC)	Seattle, WA	Provides editing services for NMFS scientific publications	3	-	5/1/83	9/30/84
Fishery Publications (SEFC)	Miami, FL	Provides editing services for NMFS scientific publications	1	-	5/1/83	9/30/84
Fishery Publications	Seattle, WA	Provides editing & publication coordination services for NMFS scientific publications	7	-	5/1/83	9/30/84
Fishery Lab Facilities Maintenance (SEFC)	Miami, FL	Provides facilities maintenance support for the Southeast Fisheries Center, NMFS	5	-	5/1/83	9/30/84
Fishery Lab Facilities Maintenance (NEFC)	Woods Hole, MA	Provides facilities maintenance support for the Northeast Fisheries Center, NMFS	9	-	5/1/83	9/30/84
Fishery Lab Facilities Maintenance (SWFC)	LaJolla, CA	Provides facilities maintenance support for the Southwest Fisheries Center, NMFS	1	-	5/1/83	9/30/84
Imagery Processing Lab	Washington DC	Provides aerial photography film processing services for NOS	7	-	5/1/83	9/30/84
NWR Console Maintenance	Nationwide	Maintenance of weather radio consoles at selected weather stations	4	-	2/81	4/84
Overseas Logistics Operations	Silver Spring, MD	Provides for the establishment, supply and resupply of observation stations in foreign lands and on the high seas	6	-	5/1/83	9/30/84

NOAA
A-76
Anticipated List of Studies

Name of Activity	Location of Activity	Description of Activity	Approx. Number of FTEs	Date of Last Review	Review Date Start	Review Date End
Instrument Shop	Silver Spring, MD	Fabricates, modifies, and constructs parts and finished assembles of instruments and equipment under development	3	-	5/1/83	9/30/84
AFOS Experimental Facility Technicans	Silver Spring, MD	Operates and maintains the AFOS experimental facility including equipment and related communications	4	-	5/1/83	9/30/84
Electrical Technicians	Anchorage, AK	Provides electronic maintenance for NWS instrumentation in the Anchorage, AK area	7	-	5/1/83	9/30/84
Electrical Technicians	Fairbanks, AK	Provides electronic maintenance for NWS instrumentation at the WSFO, Fairbanks, AK	7	-	5/1/83	9/30/84
Electrical Technicians	Honolulu, HI	Provides electronic maintenance for NWS instrumentation at the WSFO, Honolulu, HI	6	-	5/1/83	9/30/84
Weather Observations & Communications	Honolulu, HI	Provides weather observations & communications support for the WSFO, Honolulu, HI	9	-	5/1/83	9/30/84
Weather Airport Observations	New York, NY	Provides aviation observations at the NY/Kennedy WSO	7	-	5/1/83	9/30/84
Weather Airport Observations	Newark, NJ	Provides aviation observations at the Newark WSO	6	-	5/1/83	9/30/84

NOAA
A-76
Anticipated List of Studies

Name of Activity	Location of Activity	Description of Activity	Approx. Number of FTEs	Date of Last Review	Review Date Start	Review Date End
Weather Airport Observations	Long Beach, CA	Provides aviation observations at the Long Beach WSO	5	-	5/1/83	9/30/84
Weather Airport Observations	Chantilly, VA	Provides aviation observations at the Wash/Dulles Int. WSO	9	-	5/1/83	9/30/84
Weather Airport Observations	New York, NY	Provides aviation observations at the NY/Laguardia WSO	6	-	5/1/83	9/30/84
Weather Airport Observations	Chicago, IL	Provides aviation observations at the Chicago/O'Hare WSO	10	-	5/1/83	9/30/84
Weather Airport Observations	Los Angeles, CA	Provides aviation observations at the Los Angeles Int. WSO/AV	9	-	5/1/83	9/30/84
Weather Airport Observations	Fairbanks, AK	Provides aviation observations at the Fairbanks WSFO	7	-	5/1/83	9/30/84

Reprogramming

QUESTION:

On March 16, 1983, Marilyn G. Wagner of the Department of Commerce Office of General Counsel transmitted an opinion on reprogramming to James W. Winchester, Associate Administrator of NOAA. The memo stated, in part, that "a reprogamming notice would not be required...in order to convert an activity to a contract operation, pursuant to an A-76 study, even under circumstances where a reduction in personnel or expenditures will result, since an A-76 study is not a reprogramming action."

Is this the official view of the Department?

Is this language consistent with S. 2956, incorporated into Public Law 97-377, the continuing appropriations act for fiscal year 1983?

ANSWER:

The March 16, 1983, opinion is the official view of the Department and is consistent with Section 508 of S.2956. As a matter of law, a reprogramming notice is not required either to conduct an A-76 study of to convert an activity to a contract operation pursuant to an A-76 study. Section 508 requires 15 days notice to the Appropriations Committees when any one of five listed actions (including relocating employees) is proposed, but only if the action entails a reprogramming of funds, i.e., a debit from one line item and credit to another within a lump sum appropriation. Neither an A-76 study nor a conversion of an activity to a contractor pursuant to an A-76 study necessarily involves a reprogramming of funds.

Nonetheless, the Department is committed to the policy and practice of fully informing the Appropriations Subcommittees in advance of any significant changes within the Department, whether or not the proposed changes involve a reprogramming. We will inform you of all significant A-76 studies undertaken in this Department.

Polar Orbiting Satellites

QUESTION:

NOAA plans to change from a two to a one polar satellite system. The fiscal year 1984 NOAA budget proposes to reprogram $38 million intended for the polar satellite in fiscal year 1983, and to reduce the fiscal year 1984 budget by $21 million. Will the satellite reduction result in a severe degradation of services such as search and rescue, the climate program, and agricultural crop forecasting?

If a one polar satellite system failed, what would be the effects on weather forecasts?

Specifically, what would be the impact on forecasting on the West Coast if both the orbiter and the GOES-W satellite failed?

ANSWER:

No, the reduction in services resulting from a one-satellite system will not be "severe". Climate and agricultural services require continuity of data more than they do multiple viewing within a twenty-four hour period. Loss of the second satellite thus will have minimal impact on these users of data.

However, if we suffered an unsuccessful launch or premature failure, service would be disrupted until a replacement satellite were placed in-orbit. During this period, forecasts would be degraded and search and rescue activities would need to depend on other information sources.

If a one polar satellite system failed, forecasts over the Southern Hemisphere and Northern Hemisphere oceans would be degraded. In particular, accuracy of medium range forecasts beyond five days would be substantially affected.

If both the one polar orbiter and GOES-West satellites failed, weather forecasts would be degraded by the lack of near real-time assessments of the strength and areal coverage of approaching mid-Pacific storm systems. Loss of the satellites would especially diminish our capability to provide advance notification of impending severe weather. However, the GOES-East satellite can be moved to a central location providing routine coverage of the eastern Pacific. Increased aircraft reconnaissance flights would help to accurately track abd predict storm paths. Warnings would, by way of nature, be more general and prone to error, but the public would be advised of approaching storms and could take necessary steps to prepare for them. Our decision to reduce the number of polar satellites from two to one assumes that both the geostationary and polar satellites would not fail at the same time. Replacement of the satellite with a new one can be accomplished in 120 days.

Major Aspects of FY 1984 Polar Satellites Proposals:

- The FY 1984 budget proposes to move to a one-polar satellite system. This change will result in savings of $375M over a 10 year period without seriously impacting NOAA program activities.
- Under the proposal, launches of polar satellites beginning with NOAA-F would be designed to provide for a near-noon equatorial crossing orbit.
- There would be no major impacts on the National Weather Service. Data from the one-polar satellite would still be available for input to the National Meteorological Center's numerical models for preparation of daily weather forecasts.

Weather Satellites

QUESTION:

Do weather satellites provide specific data on precipitation and temperature for specific points on the earth's surface? Could we rely on weather satellites and reduce the number of ground stations.

ANSWER:

The instruments that provide precipitation and temperature information are area-viewing rather than point-viewing. The information thus obtained is representative of weather over an area and not weather at a single location as that obtained from a ground station. The two information sources are supplementary rather than interchangeable.

LANDSAT

QUESTION:

Describe new land remote sensing satellite systems and sensors that are planned to provide continuity after LANDSAT D and D-Prime?

ANSWER:

No funding for additional Land Remote Sensing satellite systems is included in the 1983/1984 budget. The private sector is expected to provide additional satellites under the present commercialization plans.

Satellites

QUESTION:

What are the similarities and differences between the DOD and NOAA polar orbiting satellites including sensors, orbits, launch schedules, etc?

ANSWER:

The Defense Meteorological Satellite Program (DMSP) has been designed to provide, as their first priority output, high quality imagery used for tactical support of strategic missions. The NOAA satellites are planned primarily to obtain quantitative environmental data for numerical analysis purposes. Although, each satellite provides both kinds of data which can be used by the other agencies, the quality is not equivalent to that obtained from its own satellites. The primary imager on the DMSP is the OLS (Optical Line scanner). This instrument provides imagery data at resolution which is "uniform" along the scan line. The NOAA counterpart to the OLS, the Advanced Very High Resolution Radiometer (AVHRR) provides "non-uniform" resolution with three infrared channels chosen to provide data from which sea surface temperatures can be determined to a high degree of accuracy. The OLS provides a single infrared channel which is utilized to provide high quality imagery. The OLS also provides night time visible imagery to a quarter moon, a goal that the NOAA system does not attempt to duplicate.

The NOAA Atmospheric Sounder System consists of three instruments, the HIRS/2 (high resolution infrared instrument), the Microwave Sounder Unit (MSU) a 4 channel microwave instrument, and the SSU (Stratospheric Sounding Unit) an infrared device for making stratospheric measurements, provided by the United Kingdom. The DMSP flys a single sounding instrument (SSM/T - a microwave instrument with 7 channels). The consolidated NOAA sounding package provides data which is capable of providing soundings of higher accuracy than the single DMSP instrument.

Remaining instruments for NOAA and DMSP meet specific requirements of the individual agencies and do not approximate a capability of the other program. For NOAA these instruments include:

1) Data Collection System - used to collect and relay environmental data measured by a variety of remotely located absorbing platforms.
2) Space Environment Monitor - provides measurements of solar activity
3) Solar Backscatter Ultra-Violet Instrument (Ozone Monitor for NOAA F)

Orbits of the DMSP and NOAA programs are similar in being sun synchronous at 833/870km. Launch schedules and the number of satellites required to meet DMSP mission goals are classified by the USAF. NOAA has flown satellites in early morning and early afternoon orbits. Replacement satellite launches have been scheduled in reaction to in-orbit failure. For budget planning purposes, it has been assumed that on average, one launch would be required every 18 months.

Fire Weather

QUESTION:

NOAA proposes to eliminate $808,000 for applied weather forecasts and advisories for prescribed burns, smoke management, and forest management for Federal and State wildlands management agencies. Will NOAA's reduction impair forest and wildlands management programs? Will Federal and State resource management programs depend on private weather services?

ANSWER:

NOAA's reduction will not impair forest and wildlands management programs. Federal and State agencies now being served would need to acquire equivalent services elsewhere through the use of private weather services or by hiring their own meteorologists. In addition, NWS will continue to issue forecasts for the largest, most dangerous wildfires, will retain ten fire weather mobile units, and will continue to issue generalized public forecasts to guide forest management decisions.

Weather Research

QUESTION:

Seven Federal agencies will spend about $1 billion on weather research and forecasting in fiscal year 1983. The Department of Defense will outspend NOAA on weather research and services by about $30 million. In a 1980 cross-cut review of Federal weather programs, a consultant to NOAA's National Weather Service (NWS) and OMB reported " ... so long as each weather service commander insists that his approach for meeting his mission requirements cannot be changed, largely parallel military weather systems will continue." In 1982 hearings before a Subcommittee of the House Committee on Science and Technology, some meteorologists, including a former Associate Administrator of NOAA in charge of NWS, claimed that unnecessary duplication exists between NWS and the military services. Critics of the current system propose a unified Federal weather office to improve service to the nation and to reduce costs. In regard to this situation, does NOAA expect greater consolidation of civilian and military weather services in fiscal year 1984? Can greater economy and efficiency be achieved through stronger central direction of weather services?

ANSWER:

NOAA expects to continue the current active coordination between the civilian and military weather services in FY 84. This will be through activities of the Federal Coordinator for meteorological Services and Supporting Research; joint programs such as the next genertion weather radar (NEXRAD) and the automation of surface weather observations; and cooperation in the management of the Operational Processing Centers of the civilian and military weather services. It is doubtful that any greater economy or efficiency can be achieved through attempts at stronger central direction of the several weather services involved. This can best be achieved through aggressive coordination, continued analysis of the most cost-effective means of providing weather services, and agreement on responsibilities that avoid duplication.

Agricultural Weather

QUESTION:

NOAA proposes to eliminate its Agricultural Weather Service Program. The FY 1983 NOAA budget claimed that the Agricultural Weather Service Program provides an estimated return of $30 to $100 in crop and livestock savings for every dollar spent on the program. In light of this, why does NOAA propose to terminate its program? Has NOAA conducted studies to determine how valuable the program is or what the effect would be if it were terminated?

ANSWER:

The issue is not the value of agricultural weather services in agricultural production; rather, it is a matter of who pays for the program, since services are tailored to a specialized user who profits from the application of this service. NOAA will continue to provide general weather services, forecasts, and severe weather warnings to the agricultural community. Elimination of tailored weather services will result in agricultural interests arranging for private meteorologists to provide forecasts and advisories specifically for use in making crop and site-specific decisions related to planting, cultivating, irrigation, harvesting, etc. We anticipate that small family farmers in a given area with like interests and requirements will mutually arrange for the specialized services they need.

QUESTION:

The Department of Agriculture (USDA) is also involved in research to determine the effects of weather on agricultural production. Has NOAA coordinated the proposed termination of its program with USDA? How will USDA's program be affected? If USDA continues operating its program, where will USDA get the weather information it needs if NOAA's program is terminated? Will USDA seek additional funding for staff or private consultants to analyze and disseminate agriculture weather information? Since USDA has been investing in computers and information networks for agricultural weather service, could a private weather service provide low cost service to farmers -- particularly if the private weather service had to invest heavily in similar equipment?

ANSWER:

USDA is fully aware of this proposal, although NOAA's principal support to USDA field programs is through NOAA's Agricultural Weather Service Centers (AWSC). These centers collect various types of data,(e.g., soil temperature data from cooperating regional, state, and local organizations) for presentation in the USDA/NOAA Weather and Crop Bulletin and for use in USDA crop assessment activities and in their pesticide/herbicide monitoring program. With the closure of the AWSC's, USDA could contract with land grant universities or the private sector for this data. USDA has made a modest investment in equipment for dissemination of weather information by USDA for the cooperative USDA/NOAA "green thumb" experiment in Kentucky, which has ended, and they have no further plans along these lines. With regard to the cost of private weather services, there are many ways in which the farming community could group or organize to purchase tailored weather services, and the way and number of private weather organizations that could respond are equally varied. Consequently, there is no meaningful way that the cost of this replacement service by industry or the necessary investment in computer equipment can be estimated.

Full Observer Coverage

QUESTION:

The American Fisheries Promotion Act established the Full Observer Coverage Program under which a U.S. observer is to be stationed aboard each foreign vessel engaged in fishing within the fishery conservation zone. The observers collect catch data and monitor compliance with fishery management regulations. Owners and operators of foreign vessels pay a fee in advance which goes into the Foreign Fishing Observer Fund to cover the costs of providing an observer on their vessels. Amounts paid out of the fund cannot exceed amounts provided for in advance in appropriations acts. According to NOAA's budget, the percent of observer coverage of foreign fishing vessels has increased from 30 percent in 1982 to an estimated 65 percent in 1983 and is expected to be 90 percent in 1984.

How successful has this program been and can it cover 100 percent of the foreign vessels as authorized by the Act? Are the foreign fees sufficient to cover all of the program cost?

ANSWER:

The level of appropriations enacted for the program sets the maximum amount of receipts that can be collected, thus the amount that can be spent. The observers have been of great value in collecting management data and in acting as a deterrent to under-reporting by foreign vessels. The degree of coverage has historically been the maximum possible coverage for the amount of appropriations. Appropriations were increased for FY 1983 and will allow coverage at the 65 percent level. Beginning January 1, 1984, NMFS can require the foreigners to contract directly for any additional observers needed to reach the full 100 percent coverage level. Program levels are adjusted so they match funds available.

Foreign Fishing Fees

QUESTION:

The American Fisheries Promotion Act increased fees for foreign vessels fishing in the fishery conservation zone. The fee schedule is changed each year.

Are these poundage fees high enough to cover the administration and other costs associated with fishery management? The receipts resulting from the payment of fees is deposited in the Fisheries Loan Fund. What happens to the money that remains in this Fund? For what purposes is this money available?

ANSWER:

The American Fisheries Promotion Act (AFPA) authorized transferring foreign poundage fees into the Fisheries Loan Fund. The poundage fees charged recover the percentage of fishery management costs related to the foreign effort. For example, in 1980 and 1981, foreign fishermen caught about 1/3 of all fish caught in U.S. waters and the fisheries conservation zone (FCZ). The poundage fees for 1982 and 1983 therefore were set to recover about 1/3 of the total costs.

The fees collected and placed in the Fisheries Loan Fund remain unappropriated balances until appropriated or transferred or until the authorization expires at which time the funds would revert back to the Treasury.

Money is available to make loans from the Fisheries Loan Fund. The Fund has three lending purposes:

(1) Avoiding default of debt obligations guaranteed under the Fisheries Obligation Guarantee Program (vessel must be over 5 net tons).

(2) Avoiding default on debt obligations which financed the construction, reconstruction, reconditioning, or purchase of commercial fishing vessels (vessels must be over 5 net tons).

(3) Assisting commercial fishing vessel owners or operators who face net operating losses (vessel may be any size).

Fisheries Loan Fund

QUESTION:

A moratorium on the Fisheries Loan Fund was legislatively removed in 1981 on the condition that the $6 million fund balance would be used to the extent possible to assist fishermen who were in danger of defaulting on federally-guaranteed loans. Most of this money was loaned to shrimp fishermen in the Gulf area. Nothing was disbursed from the Fund in 1982, but $10 million has been made available for fiscal year 1983. The Administration is not requesting disbursement authority for making loans from the Fund for FY 1984. Are the loans made in 1981 being repaid? How much of this money has been defaulted? What are NOAA's policies and criteria for selecting fishermen who will receive assistance from the $10 million currently available for loans? Does NOAA plan to change its selection criteria from that used in making the 1981 loans, and, if so, how?

ANSWER:

Yes, all loans are being repaid; however, out of the $6 million fund balance which was loaned we are experiencing some difficulty with six loans totalling $675K.

To date, there have been no defaults but there are legal proceedings on 6 cases with outstanding loan balances of about $675K which could result in actual defaults if not resolved.

We plan to allocate the $10 million as follows: $3.9 million to holders of FVOG guaranteed loans; $5.8 million to conventionally financed vessel owners; $.3 million to administrative costs. Criteria for conventionally financed vessels includes: (a) no other sources or assets available to generate funds; (b) long-term operation (5-years); (c) assistance provides assurance that the applicant will succeed; and (d) sufficient equity position exists to secure financing.

NOAA's selection criteria will be changed slightly in order to handle the anticipated overwhelming volume of applicants. We have established eligibility criteria for screening of applicants. Once applicants are deemed eligible, they will be processed and funding will be awarded on a "first-come, first-serve" basis. The entry of conventionally financed vessel owners, unlike the holders of FVOG guaranteed loans for which portfolios exist, will also change the information requirements since there are no existing files for these new applicants.

NOAA Fleet

QUESTION:

NOAA plans to deactivitate the eight NOAA vessels dedicated to fisheries research and stock assessment surveys (NOAA-75). According the FY 1984 budget submission, the Administration is proposing to provide the necessary ship time for fisheries research primarily through chartering of commercial vessels at a substantial cost savings (NOAA-144). How reasonable is the estimated cost savings that is expected to occur from chartering, particularly in light of the statement on page 144 that indicates that NOAA's fisheries vessels may be used for selected activities if this proves to be more cost effective than outside chartering? Will the quality or quantity of these fisheries services suffer if commercial vessels are used?

ANSWER:

We believe the estimated cost savings to be quite reasonable. For example, during FY 1982 NMFS spent approximately $1,641K to provide 576 days of chartered ship support for research activities. The average cost of $2,850 per charter day compares favorably with an estimated $5,000 - 7,000 per day to operate a NOAA research vessel to provide the basis for potential substantial cost savings

Naturally, because of the wide variety of survey work and the economics of charters, averages will not apply in every case. In some cases, it may be more cost-effective to use the NOAA vessels.

While commercial fishing and dedicated research vessels do not always compare on a one to one basis, NOAA does not expect the quality of work to suffer. The quantity of fisheries services available will be sufficient to complete the higher priority work tasks required to support the management decision making process. Any declines in work will be because of the shift out of lower priority tasks and not just because of the shift to commercial vessel charters.

QUESTION:

The Administration's budget proposed the deactivation of 10 NOAA ships (including the eight fisheries ships) and a reduction of 2,154 days at sea. This proposal constitutes half the NOAA fleet. There is no reduction for the size of the NOAA Corps. As the NOAA Corps largely exists to provide the officer contingent on board NOAA ships, how does NOAA justify and intend to utilize the 365 officer work years in fiscal year 1984? Should there be a corresponding reduction in force for the NOAA Corps?

ANSWER:

Manning levels of the NOAA fleet include billets for 133 NOAA Corps officers. Of those 133 billets, 112 are essential to continued operations. Current NOAA Corps ceiling combined with other NOAA-wide demands for officer assignment has resulted in fleet manning only slightly above the 112 opportunity for program flexibility or command discretion, and exacerbates the impact of unanticipated interruptions in officer availability (e.g., sickness, emergency leave, etc.).

Of the 10 ships proposed for deactivation, only 5 are operated with NOAA Corps officers. Deactivation of the entire group would affect a total of 23 officers. Of the 23 officers affected, 17 "junior officers" would be reassigned to other fleet units, bringing the remaining fleet to the optimal staffing level. The 6 senior officers, 5 of whom are commanding officers, would have to be considered individually but would likely not be reassigned to other fleet units immediately.

An immediate reduction-in-force of the NOAA Corps predicated solely on the proposed ship deactivation would be inappropriate. In the longer term, the appropriate size of the corps will be examined in any consideration of reductions in NOAA programs which require the services of NOAA Corps officers.

Ocean Dumping

QUESTION:

What part of NOAA's ocean dumping research is reimbursable?

ANSWER:

None of NOAA's ocean dumping research is reimbursable.

Fisheries Budget

QUESTION:

What percentage of the fisheries budget involves the monitoring of ecosystems?

ANSWER:

Approximately $2 million or 1.4 percent of the Fisheries $138.8 million budget for FY 1983 involves ecosystems monitoring. Ecosystems monitoring is defined as the taking of time series environmental data at specific locations to determine the effects of changes overtime. This work is conducted primarily in the Northeast.

Data Buoys

QUESTION:

What alternate sources to buoys exist for providing weather data?

ANSWER:

There are several techniques for getting weather observations over the ocean; buoys observations from ships, drifting buoys, and satellites. Other techniques such as wave measurements by shore-based radar are not yet fully developed.

Observations from ships and drifting buoys are useful, but are limited because their locations are determined by shipping lanes and ocean currents. Satellites provide weather picture but cannot penetrate clouds to provide wind and wave data. Consequently, we need to maintain a variety of ocean weather data sources.

Recreational Fisheries

QUESTION:

What percentage of fish are caught by recreational fisheries (as opposed to commercial) along the coast or at sea?

ANSWER:

For those species targeted by both commercial and recreational fishermen, and used for food, the recreational catch represents approximately 30 percent of this total. Within the total, however, there is considerable variation by individual species and geographical area.

Columbia River

QUESTION:

NOAA proposes to decrease its funding for the Columbia River salmon hatchery operations by about $7 million as part of a two-year phase-out of NOAA funding for these operations (NOAA-83). This reduction will terminate NOAA financial support for the operation and maintenance of seven hatcheries in Oregon and 12 hatcheries in Washington. The remaining hatcheries would continue to be operated at a reduced level. What effect will this have on the State's ability to continue these operations?

ANSWER:

If sufficient alternative funding is identified, then no impact is expected on the State's ability to continue operations.

Nautical and Aeronautical Charts

QUESTION:

What other Federal agencies use nautical, aeronautical and aviation charts? What amount have these agencies previously reimbursed NOAA?

ANSWER:

About 37 percent of the total sales of nautical and aeronautical charts are made to Federal agencies. the Defense Mapping Agency (DMA) and the Federal Aviation Administration (FAA) account for 98 percent of the nautical and aeronautical chart sales to other Federal agencies. In Fiscal year 1982, NOAA was reimbursed for printing and distribution charges amounting to $955,000 by DMA and $2,072,000 by FAA. In addition, FAA reimbursed NOAA $9,042,000 for the production of special charts for that agency in FY 1982. The remaining Fiscal year 1982 chart sales were to the Departments of Agriculture, Interior, and Justice, Federal Communications Commission, Central Intelligence Agency, National Aeronautical and Space Administration, and Immigration and Naturalization Service. Combined these Federal agencies reimbursed NOAA $60,000 for printing and distribution costs. Federal agencies pay a lower price for nautical and aeronautical charts than do public users. The current scheduled printing price of conventional nautical chart to a Federal agency is $1.25 versus $5.00 to a public user. The current schedule printing price for a sectional aeronautical chart to a Federal agency is $1.10 versus $2.75 to a public user. The difference between prices Federal agencies and public users is that Federal agencies do not pay the cost of distribution, postage, and agents discounts.

OTEC Activities

QUESTION:

What fees are charged to cover OTEC licensing activities? Seabed mining?

ANSWER:

The processing fee for each OTEC licensing application is $250,000. Each applicant for a Deep Seabed Mining exploration license is required to submit $100,000 with the application. If actual processing costs exceed $100,000 the applicant is billed. If actual processing costs are less than $100,000 NOAA refunds the difference to the applicant. Fee revenues in both programs are required by law to be deposited into the U.S. Treasury and are not available for use by NOAA.

Great Lakes Research

QUESTION:

What is NOAA's level of funding in the Great Lakes Region for pollution? How is this funding distributed?

ANSWER:

NOAA funding in the Great Lakes Region for research related to lake water quality is distributed through the National Sea Grant Program and the Great Lakes Environmental Research Laboratory.

The Sea Grant expenditure in FY 1982 for lake pollution research was $514K, distributed among the following universities:

University of Michigan	$149K
University of Minnesota	32K
SUNY/Cornell University	17K
University of Wisconsin	316K
	$514K

Most of these funds supported research on PCB's and other synthetic organic materials.

The Great Lakes Environmental Research Laboratory spent in FY 1982 approximately $1,600K on research directly related to lake pollution. Of the total, $400K was funded from the Long-Range Effects research Program (Section 202, P.L. 92-532) to support GLERL's program examining the cycling, transport, and fate of toxic organic compounds in the Great Lakes. In addition to the $1,600K of expenditures directly related to pollution problems in the lakes, GLERL also spends another $1,200K each year in research and other activities that are supportive to the pollution work. Thus, GLERL spends a total of $2,800K annually for pollution-related research and supportive environmental studies.

Travel Costs

QUESTION:

Please provide the Subcommittee with the total travel costs incurred by NOAA in FY 1982, as well as estimated costs for FY 1983 and FY 1984. Provide a breakdown by subactivity levels, where appropriate, as well as travel costs incurred by Schedule C employees.

ANSWER:

Travel Obligations
(in thousands)

Appropriation/Subactivity	FY 82' Actual	FY 83' Estimate	FY 84' Estimate
Operations, Research and Facilities:			
(Direct Program)			
Non-living Marine Resources	$ 56	$ 56	$ 56
Ocean Research	653	662	657
Ocean Services	417	423	419
Sea Grant	125	127	...
Coastal Zone Management	...	...	168
Mapping, Charting and Geodesy Prog.	1,654	1,677	1,663
Information Collection and Analyses	1,223	1,240	1,230

Conservation and Mgmt. Operations	793	803	797
State and Industry Programs	222	225	224
Public Warning and Forecast Svcs.	4,130	4,186	4,121
Atmos. and Hydrological Research	598	606	601
Satellite Services	195	197	196
Satellite Systems	42	42	42
Data and Information Services	209	211	210
Executive Direction and Admin. (EXAD)	2,822 (8)1/ (23)2/	2,860 (24)1/ (36)2/	2,823 (35)1/ (39)2/
Marine Services	612	620	615
Aircraft Services	153	155	154
Total, Operations, Research & Facilities	$13,904	$14,090	$13,976

1/ Figures in parentheses represent the portion of EXAD travel obligations related to Schedule "C" employees. There were 11 Schedule "C" employees in FY 1982, there are 11 in FY 1983, and 11 are estimated for FY 1984.

2/ Figures in parentheses represent the portion of EXAD travel obligations related to NOAA's three Presidential appointees.

Appropriation/Subactivity	FY 82' Actual	FY 83' Estimate	FY 84' Estimate
Operations, Research and Facilities:			
(Reimbursable Program)	$2,137	$2,475	$3,160
Construction	4	6	6
Coastal Zone Management	191	184	...
Promote and Develop Fishery Products and Research to American Fisheries	191	...	...
Fishing Vessel and Gear Damage Compensation Fund	2	2	2
Fishermen's Contingency Fund	1	1	1
Foreign Fishing Observer Fund	27	61	61
Fisheries Loan Fund	10	10	...
Coastal Energy Impact Fund	8	...	...
Federal Ship Financing Fund	43	43	43
Miscellaneous Trust Funds	226	255	252
Grand Total, All NOAA Appropriations	$16,744	$17,127	$17,501

QUESTIONS FOR THE RECORD FROM SENATOR WEICKER

Administrative Positions

QUESTION:

During the previous Congress, we raised concerns regarding proposed cuts in Administrative funds and personnel. Again this year, the budget proposes a cut of 32 percent in personnel (319 of 1000 positions) and $9,402,000 -- or 17 percent in Administrative funds. This reduction is proportionately larger than overall reductions in the NOAA budget. How are you going to run $800 million in programs with 681 administrative positions and to what extent are these reductions contingent upon approval of program cuts proposed in the budget.

ANSWER:

Most of the administrative positions are directly tied to program cuts, so that as a program is reduced the administrative support for the program would also be reduced. The total administrative support cuts proposed in the FY'84 Congressional budget and reductions are 263 positions and $7,474,000. This represents 26 percent in personnel and 13.5 percent in Administrative funds.

Ocean Dumping

QUESTION:
A decrease of 75 positions and $6.8 million is proposed to reduce projects dealing with ocean dumping and pollution studies. Given the possible irreversible impacts of toxic wastes and other pollutants on the ocean environment, isn't research of this type a legitimate Federal responsibility?

ANSWER:

The decrease in this line item is justified because of the completion of certain regional program and site-specific ocean dumping projects. The substantive field work of the Marine Ecosystems Analysis (MESA) projects in the New York Bight/Hudson-Raritan Estuary and in Puget Sound essentially have been completed. The Northeast Monitoring Program is in its final year of field work. The site-specific ocean dumping monitoring and research activities in the New York bight, off Delaware and Puerto Rico have been completed.

Regional assessments and site-specific ocean dumping projects have been conducted by NOAA to provide basic, broadly applicable understanding of marine processes and the effects of marine pollution. Extensive data are now available for the heavily stressed coastal waters of the northeast United States, as well as for two major estuaries, one on the east coast (Hudson-Raritan) and one on the west coast (Puget Sound). The data collected are now being organized, interpreted, and the findings synthesized and reported for decision-making purposes. Any future activities needed to complete the interpretation, synthesis, and information dissemination phases of the regional assessments and site-specific ocean dumping programs will be completed through the use of other funds available to the Ocean Assessments Program, specifically under Section 6 of the National Ocean Pollution Planning Act (NOPPA).

NEXRAD

QUESTION:

NOAA is in the midst of a development plan, known as NEXRAD, to eventually replace its weather radar system throughout the country. NOAA is requesting $5.7 million in fiscal 1984 to contract for two prototype radar systems. The Department of Defense and the Federal Aviation Administration are joining in the effort. Is NOAA projecting that $5.7 million will be sufficient to fund NOAA's share of the contract for the two prototype radars?

ANSWER:

This funding was requested to augment the NEXRAD program based on in-house estimates developed in mid-FY 1982 to conduct the vailidation phase and related activities. NOAA is continuing to review NEXRAD requirements and will request additional funding if necessary.

QUESTION:

What is the projected cost of the entire radar system when it is finally installed in the early 1990's?

ANSWER:

Contractually binding estimates of the production cost of the NEXRAD radar will not be available until late in the validation (development) phase of the program, i.e., late 1985/early 1986. Detailed estimates have been made by both contractors but the estimates differ in some details. Until the competitive development phase is completed, these estimates will be used as the basis for production costs. A major part of the validation phase effort will be directed toward to a search for ways to reduce or control production costs; and the results of those efforts will also not be known until 1985 or 1986. No decision has yet been reached on the need for an all-doppler (NEXRAD) network or whether a reduced capability, non-doppler system can be justified in some areas of the country. A mixed doppler/non-doppler network may reduce the initial acquisition cost of the network, at some penalty in increased life-cycle costs to support two different operating systems. For all of the above reasons a carefully qualified estimate of current projected total cost for a network of the 160 doppler radars to be installed and placed in operation between 1988 and 1992 is approximately $950 million. This projection is expressed in real year dollars, i.e., including the estimated effects of inflation on program costs.

Polar Orbiting Satellites

QUESTION:

NOAA currently has two polar orbiter weather satellites, and this committee has repeatedly rejected Administration proposal to eliminate one of the polar orbiters. However, if a contract is not let in the next few months for the "J" satellite, as well as the "H" and "I" satellites, we face an eventual gap in satellite coverage and a de facto one satellite system for at least a short period of time.

Why has there been a delay in contracting for these satellites, especially since the Congress provided $18 million for this fiscal year expressly to continue the two-satellite system?

If the Congress accepted the fiscal year 1984 proposal to move to a one satellite polar orbiter system, what gaps in coverage would occur, especially if one of the two geostationary weather satellites were disabled?

ANSWER:

Contracting for NOAA H, I and J has proceeded in routine manner since the Congress provided FY 1983 funding for this purpose. A proposal for production of these satellites was received from RCA in late 1982. NASA has been actively engaged in evaluating the proposal and preparing for negotiations since receiving the proposal.

Negotiations with RCA are scheduled for mid-May with contract award planned for July of this year.

It is true that NOAA "J" must be procured at this time, if the Congress indicates its intention of maintaining a two-polar system. The negotiated agreement with RCA will permit this to occur at any time up to the time of the contract award.

Reduction to a one-satellite polar program as requested in the FY 1984 budget proposal would not result in service discontinuities.

The likelihood of service discontinuity is believed to be low. The Atlas launch vehicle has a success rate of approximately 90 percent; one NOAA satellite (B) failed to achieve useful orbit. Premature failure, though always a possibility for a number of reasons, is less likely for a mature design such as the TIROS/NOAA satellite system than for a new series such as GOES D (the first of the series procured from the Hughes Aircraft Company) or LANDSAT D. This is normally true because design deficiencies which are found in early satellites are corrected for downstream ones.

To guard against discontinuity, the one-polar orbit program has been structured so that launches are scheduled in anticipation of failure. The design lifetime of the satellite is 20 months. The one satellite launch scenario takes this into account by scheduling a launch each 18 months whether the in-orbit satellite shows signs of degradation or not. It is planned therefore, to have a satellite in orbit, checked out and ready for services at the time of completion of the predecessor satellites' design lifetime. In-orbit we have seen extended longevity from each of the already launched TIROS/NOAA satellites. Should we suffer a launch failure in the one-polar system, it is hoped that the then in-orbit satellite will operate in the manner of NOAA 6, which is being replaced after 3 1/2 years in-orbit, and thus provide service through the period before the next satellite is ready for launch.

QUESTIONS SUBMITTED BY SENATOR WEICKER

OCEAN AND COASTAL PROGRAMS

QUESTION:

Once again, I am overwhelmed by the Administration's proposed budget cuts for NOAA and the apparent shortsighted attitude in regards to the oceans. In Ocean and Coastal programs and Marine Fishery Resource Programs, the proposed cuts total in excess of $80,000,000. Please explain to me how NOAA proposes to carry out vital research if such drastic cuts are approved?

ANSWER:

Most of the research carried out by NOAA's marine pollution research programs has been directed to include a new focus on national assessments, rather than site-specific issues, and on the synthesis of available information for decision making purposes. We think we can effectively implement this redirection with fewer resorces than had been available to NOAA's marine pollution programs in the past.

The proposed reduction in ocean minerals research reflects a gradual focusing of environmental concern on fewer and fewer problem areas. This process has been on going since Project DOMES began in 1975. The major focus now is on the extent and significance of the benthic impact associated with deep seabed mining.

In FY 1982, NOAA began work on two areas of generic research to provide NOAA with knowledge for making decisions of OTEC license applications: development of a methodology for predicting the area of water affected by an OTEC plant's water intake and discharge plumes and a basic analysis of the potential impact of OTEC operations on commercial and recreational fisheries. These two areas had been identified as the highest priorities in NOAA's five-year plan for assessment of the effects on the environment of OTEC facilities and plantships, which was submitted to the Congress as required by Section 107 of the OTEC Act of 1980 (P.L. 96-320). These two generic research projects will be completed by the end of FY 1983, at which time we can use environmental data provided to us by prospective applicants for OTEC licenses.

Non-Living Marine Resources

QUESTION:

A reduction of $800,000 is proposed to eliminate the research program for polymetallic sulfides. A strong base of scientific data is essential for the commercial mining of polymetallic sulfides. If it becomes economically desirable to begin mining operations, how long will it take NOAA to conduct the initial baseline studies?

ANSWER:

It is not possible at this time to tell exactly how long it would take to conduct preliminary baseline studies prior to commercial mining of polymetallic sulfide deposits. The purpose for which a baseline study is intended will of course influence the scope of any program and the time required. The NOAA program was not designed as a baseline EIS study. With recent heightened interest in the Gorda-Juan de Fuca area seaward from Oregon and Washington, and new work being carried out by the Department of Interior (USGS), the academic community, and Canadians, it is possible that a considerable data base will be available for use in the completion of requisite baseline studies if and when it becomes economically desirable to begin mining operators. A determination of the amount of additional environmental information necessary prior to the preparation of an EIS and the promulgation of regulations will depend on analysis of such available data.

QUESTION:

Shouldn't NOAA currently be conducting these studies so that in the event of economic feasibility, the mining operations will not be further delayed?

ANSWER:

We believe that the continuation of such studies by the Federal Government at this time is premature. There is so far insufficient evidence that commercial deposits of marine polymetallic sulfides (PMS) exist, or that industry is ready to invest in the exploitation of such resources if they do exist.

QUESTION:

Do the funds allocated for research and development of polymetallic sulfides benefit other areas of physical or biological oceanography?

ANSWER:

Almost any marine research at spreading centers will contribute to the fundamental understanding of physical or biological oceanography in these areas. Marine polymetallic sulfides are the result of hydrothermal activity associated with crustal spreading along some 65,000 km of the seafloor. Understanding the nature of this hydrothermal activity influences all oceanographic disciplines.

Tide and Current Publications

QUESTION:

In FY 1983 NOAA expects to distribute 55,000 tide tables, 40,000 tidal current tables, 6,500 tidal current charts, and 10,000 Great Lakes water level charts. The price of these publications is proposed to be increased to achieve full cost recovery. What is the price increase expected to be?

ANSWER:

NOAA is preparing proposed legislation that will provide that:

- The price of charts and other products can be established by the Secretary of Commerce, but said price at a minimum shall provide for the recovery of the reproduction and distribution costs.

- The revenues from the sale of charts and other products shall be deposited in miscellaneous receipts of the U.S. Treasury. Copyright protection would be asserted on charts and other products for a period not to exceed 12 years.

- All users will pay for charts and other products except foreign governments, international organizations, and other agencies with which we have exchange agreements.

QUESTION:

In the projections used to determine the prices of the publications to achieve full cost recovery, was a drop in sales assumed. If not, would it be likely to expect a decrease in sales if the price increases were substantial? If the price of the tide and current publications increased greatly would it become too high for the consumer to bear and thus a public safety factor arise?

ANSWER:

We are reviewing several proposals at this time and all assumptions regarding sales and pricing. NOAA recognizes its public safety mission and intends to evaluate very carefully any impact on the distribution and sale of its navigational aids to commercial and recreational boaters during the phase-in period. NOAA will continue to monitor fluctuations in sales volume and if sales start to drop significantly, this would be a primary consideration in the interest of public safety in any proposed future price increases.

Ocean and Great Lakes Research

QUESTION:

The Marine Protection, Research, and Sanctuaries Act of 1972 requires the Secretary of Commerce to maintain a comprehensive program of monitoring and research on the effects of dumping into the waters of the Great Lakes. If NOAA eliminates all funding for the Great Lakes Environmental Research Lab, how does the Secretary propose to accomplish the congressional intent of Public Law 92-532?

ANSWER:

Section 201 of the Marine Protection, Research, and Sanctuaries Act (P.L.92-532) requires the Secretary to "initiate a comprehensive and continuing program of monitoring and research regarding the effects of the dumping of material into ocean waters or other coastal waters where the tide ebbs and flows or into the Great Lakes or their connecting waters . . . ." NOAA's ocean dumping research program, which was initially funded in FY 1977, has focused exclusively on industrial and municipal waste dumping occurring off the Atlantic and Gulf coasts. In as much as no dumping (as defined by the Act) occurs in waters off the West Coast or in the Great Lakes, NOAA has not sought funds to conduct ocean dumping-related research pursuant to P.L. 92-532 in those regions. Thus, closure of the Great Lakes Environmental Research Lab should have no impact on NOAA's activities pursuant to Title II of the MPRSA.

Chesapeake Bay Program

QUESTION:

The Chesapeake Bay is a major spawning and nursery area for anadromous fish as well as supporting economically valuable oyster populations. Recent scientific studies have indicated that the water quality of the Bay is deteriorating. Nutrient enrichment, the decline of aquatic vegetation, and the increased levels of toxicants are pressing concerns. If funding for the Chesapeake Bay Program were terminated, would a long-term monitoring plan for the Chesapeake Bay be initiated?

ANSWER:

No long-term monitoring program is currently planned by NOAA. However, the need for and design of such a program is an issue that will likely be addressed by the Committee for Chesapeake Bay Research Coordination, established in response to the Chesapeake Bay Research Coordination Act of 1980. NOAA is currently using the $250K that was appropriated in FY 1983 to develop monitoring procedures with the states of Maryland and Virginia and to purchase equipment for these states that is necessary to initiate a long-term monitoring plan that will be carried out by the states with Federal coordination.

QUESTION:

Landings of anadromous fish such as shad, alewife, and striped bass have declined in recent years. Additional, the declining water quality has led to a reduced diversity and abundance of benthic organisms. Striped bass and oysters are two very valuable resources of Chesapeake Bay. Would the future of these stocks be assured if the Chesapeake Bay program was terminated?

ANSWER:

Continuation or termination of the Chesapeake Bay Program will have no impact on assuring future stocks of living marine resources in the Chesapeake Bay. The results of the Chesapeake Bay Program have given new insights into some of the factors affecting the abundance of shad and striped bass. Future efforts should focus on improved management. The latter should include efforts to eliminate barriers to the fish in terms of spawning areas, continued efforts to improve water quality, and restrictions on their harvesting to allow time for the species to recover. Currently the states are working to enhance the stock, both through natural and artificial means.
Sufficient management proposals have been developed by EPA, based on the data collected during the Bay Program, and future stocks can be

assured by implementation of these recommended management options by the states which border this estuary.

Sea Grant

QUESTION:

The Administration contends that Sea Grant activities are useful but are only of local or regional importance, hence they should be funded by state or local governments or universities or private sector interests. Is the Administration aware of the National Association of State Universities and Land Grant Colleges, recent evaluation of the economic benefits of Sea Grant program activities?

ANSWER:

A number of studies evaluating the economic benefits of Sea Grant Program activities have been done, including the one by the National Association of State Universities and Land Grant Colleges, which indicate a net economic benefit from the Federal investment in Sea Grant. Although we have not analyzed the validity of any of the specific figures contained in these reports, we concur with the implication that Sea Grant has been successful in encouraging the collaboration of unversities, industry and local government for the purpose of enhancing the marine economy. Having served as the moving force in the establishment of a network of colleges and unversities with strong programs in marine education and research, the Federal Government's role in the Sea Grant program has been achieved.

QUESTION:

How can the Administration believe that eliminating a federal/state partnership in research, education, and extension services which generates between $200 and $300 million in annual economic activity will have no effect on the national welfare?

ANSWER:

We do not believe that the Federal Governement was ever intended to be a permanent partner in the Sea Grant System. Rather Federal support was to be the moving force in the creation of a network of institutions with strong programs in marine research, education and advisory services. This goal has been accomplished. We believe that those aspects of the Sea Grant Program which have demonstrated their worth will be continued without Federal support.

QUESTION:

What was the level of Sea Grant matching funding in FY 1982?

ANSWER:

In FY 1982, Sea Grant made grants totalling $33.2 million. This was matched by $22.2 million in non-Federal dollars or roughly 40 percent of the total funding for Sea Grant projects.

QUESTION:

Has this level of funding increased or decreased in FY 1983?

ANSWER:

So far in FY 1983, Sea Grant has awarded $15.6 million in grants. The match for these awards totals $9.1 million. This amounts to roughly 37 percent of the total funding for projects to date and is essentially the same as the level of matching funding in FY 1982.

QUESTION:

For private sector interests to support some non-trivial portion of Sea Grant program activity in FY 1984 industry contributions would have to increase five-fold. What evidence does the Administration have that this magnitude of funding will be forthcoming?

ANSWER:

We do not anticipate that all aspects of the current Sea Grant program will survive when federal funding is removed. The beneficiaries of Sea Grant activities will determine which of those projects will be continued. Thus we do not believe that a five-fold increase in industry contributions will necessarily be required.

QUESTION:

It is extremely difficult to gain exclusive ownership rights to Sea Grant program output because so much of it is basic research intended for broad application. Is there adequate incentive within present Sea Grant program activity for industry to increase its funding levels?

ANSWER:

The ease with which results of Sea Grant research moves into commerce depends to a major degree on the aggressiveness of the participating universities' patent policies. Over the past few years, the Federal government has relaxed its regulations to make it easier for exclusive rights to inventions. There is a widespread need for academic institutions to develop routine procedures or working with industry so that useful information can be more easily commercialized and industrial investment in academic research can get better protection. Many Sea Grant institutions are pursuing this.

Coastal Zone Management

QUESTION:

From a funding standpoint, which alternative would be more likely to elicit a favorable response from state governments; asking them to accept 100 percent of funding responsibility for coastal programs or proposing a cost sharing adjustment in the Federal/state partnership?

ANSWER:

The coastal states have repeatedly sought additional funding for Federal financial assistance for coastal management. However, the program has successfully met its objectives and the states have had a chance to seek funding from other sources to support coastal management without further Federal assistance.

NOAA Undersea Research Programs (NURP)

QUESTION:

NOAA'S Undersea Research Program has supported scientific research conducted by National Marine Fisheries Service, National Ocean Survey, Marine Pollution Program, Environmental Research Laboratories, Coastal Zone Management Program, and the Sea Grant Program. Has this undersea research program been useful in supporting NOAA research efforts?

ANSWER:

Other program elements of NOAA have made use of the Undersea Research Program to supplement marine research related to the agency's mission responsibilities which include: managing and protecting living resources and their habitats, monitoring and conducting research in marine pollution, and acquiring basic scientific information about the marine ecology and environments in U.S. coastal waters. The capabilities of the Undersea research program have contributed to the ability of researchers to successfully complete selected undersea tasks and extend classical land-based laboratory scientific methods and capabilities to the seafloor.

QUESTION:

What is the current status of the four regional undersea research programs in Hawaii, California, Southeast Coast, and the Virgin Islands?

ANSWER:

Hawaii - is presently funded through Fiscal Year 1983 and is currently conducting studies on various marine organisms, sediment movement, effects of sewage upon marine ecosystems, fisheries investigations, geothermal vent/rift morphology and other valuable marine research utilizing the only dedicated research submersible in the Pacific Ocean.

California - is being funded at a minimum level to support continuing underwater habitat surveys at proposed dive sites and the development of surface-supported diving capabilities.

Southeast Coast - is presently conducting marine research investigations along the Southeast coast of United States. The surface support ship is specifically designed for mixed-gas deep diving operations. The mobility of this system allows research to be conducted from off the coast of Virginia to Florida satisfying a wide range of marine science needs along the continental shelf.

Virgin Islands - is presently continuing to perform undersea research obtaining scientific information of coastal and tropical environments and to obtain new and improved underwater research and engineering techniques, instrumentation, and equipment. This system has proven to be extremely safe, cost effective, and valuable to NOAA and other Federal agencies, institutions, and organizations. It is the only active in-situ underwater research laboratory in the world today.

QUESTION:

NOAA's Undersea Research Program conducts research which would not be possible using conventional research techniques and in so doing interacts with many academic institutions. Would the elimination of NURP adversely affect the overall extent of undersea research being conducted in U.S. waters?

ANSWER:

No, the NOAA Undersea Research Program (NURP) has promoted and enhanced manned undersea research and operational capabilities, through: (1) undersea research and services linked to specific NOAA science requirements and (2) extramural grants/contracts with universites and industry. (Funding through NURP has provided the science community with an ensemble of undersea facilities and capabilities.)

NOAA is not the only Federal agency, however, which provides support for underwater facilities and research. The submersible ALVIN for example is jointly funded by NSF and DoD/Navy (as well as NOAA). We expect that their support for facilities and programs related to their missions will continue. In addition, we anticipate that private industry as well as state governments will step in to support undersea research related to their specific needs in resource development in management. In addition, NOAA program elements can still use available funds for submersibles when necessary to meet high-priority research needs.

QUESTION:

Baseline studies are essential in determining the environmental impact of proposed oil and gas drilling sites on Georges Bank. If NURP is terminated, will the research being conducted on this ecologically sensitive and economically valuable area be affected?

ANSWER:

No, the NOAA will continue to fund the highest priorty baseline environmental studies on Georges Bank necessary to meet its program responsibilities.

There is a billion dollar year commercial fishing industry in the area of proposed oil and gas drilling, which may impact the production on Georges Bank and canyons (nursing grounds for commercial species). Human health is also involved in these studies because of monitoring the quality of fish produced. While termination of the NURP program will reduce our ability to conduct certain kinds of research, those studies essential to NOAA's responsibilities will be maintained by other programs with in the agency.

QUESTION:

If, as proposed, NURP is terminated, what programs will remain in NOAA to conduct in situ undersea research?

ANSWER:

The highest priority undersea research will be funded from NOAA programs for fisheries, marine pollution and other resource assessment research.

QUESTION:

Will the proposed termination affect current research being conducted on deep-sea minerals?

ANSWER:

Yes, the facilities used for a portion of the research on deep sea minerals are provided by NURP, and if it is terminated, many of these studies may have to be refocused. Certain kinds of research activities might have to be discontinued temporarily.

QUESTION:

Manned submersibles offer a unique vehicle from which to study fish populations and benthic communities which would otherwise remain unobserved. To what extent will NOAA use deep and shallow water submersibles in support of research objectives if NURP is terminated?

ANSWER:

Available funds will be used to fund the use of submersibles when necessary to meet the highest priority research objectives of our programs.

QUESTION:

The deep research submersible ALVIN is currently funded jointly by the National Science Foundation, the Office of Naval Research, and NOAA. How will the termination of NOAA's one-fifth share of the funding, $450,000, affect the Agency's involvement in deep-sea research?

ANSWER:

While NOAA is proposing to terminate its share of base funding for the ALVIN, the Agency will use available funds to continue the use of submersibles when required to meet essential program needs and responsibilities in areas such as investigations on deep sea metals, oil and gas drilling areas, fishery habitats, ocean pollution problems and other deep sea marine problems.

QUESTION:

Has our knowledge of the deep-sea reached the point to warrant a reduction in funding?

ANSWER:

The Administration's decision to terminate the NURP program does not assume that our knowledge of the deepsea is complete. Obviously, there is much more that we can learn about the oceans and their resources and the use of undersea facilities provide one avenue for such research. In these times of fiscal constraint, however, we must focus available funds on the high priority research activities essential to our program responsibility to effectively manage ocean resources. We believe that the regional undersea program established through NURP will continue to be funded by the states/regions and industry groups which benefit from their operation. The results of these continued efforts will contribute to an increased understanding of the deepsea environment. In addition, NOAA program elements will use available funds to maintain the level of involvement in undersea research necessary to meet essential program responsibilities.

QUESTION:

What is Japan's annual budget for undersea research equivalent to NURP?

ANSWER:

The Embassy of Japan identified a total budget in FY 1983 of $20.93 million (U.S. dollars). For the "undersea" and all ocean-related activities (acronym-JAMSTEC). Of those funds, $7.27 million is associated with "R&D on submerged technology." This primarily involves construction of double-hulled semi-submersible facility. $5.9 million is associated with "R&D on a deep survey ship" (i.e., the submersibile SHIMKI-2000). Thus, aproximately $13.2 million of a total undersea/ocean budget of $20.93 million in FY 1983 is related to research and construction on submersibles and semi-submersibles.

MARINE FISHERIES

QUESTION:

Marine fishery resource programs are hard hit by the Administration's proposed budget cuts, with funding reductions totalling in excess of $54 million. These drastic cuts represents a 37 percent reduction in funding for existing programs, as well as the schedule closure or major reduction of nine National Marine Fisheries Service (NMFS) laboratories. Is NOAA giving up on its effort to assess, manage, and make future predictions on our nation's valuable fishery resource?

ANSWER:

NOAA is not giving up on its efforts to assess, manage and make future predictions on the nation's fisheries resources. We believe the FY 1984 budget proposal represents a proper balance of programs needed to conserve, manage, and develop our nation's fishery resources.

QUESTION:

Basic fishery research aimed at determining relative stock abundance, spatial distribution, and species composition are essential in developing fishery management plans. How will reductions in funding for marine fishery resource programs affect NOAA's ability to obtain this information?

ANSWER:

The proposed reductions in resource surveys and NOAA vessel support will reduce the number and scope of the NMFS stock assessment efforts. These surveys are one-time or special purpose in scale and are less important than broader-based resource assessment efforts. The remaining broad-based surveys are expected to provide NOAA with the ability to supply information used for managing existing high priority fisheries.

QUESTION:

Without this vital information, how can NOAA develop and initiate fishery management plans?

ANSWER:

Reductions in these resource surveys will not adversely impact existing fishery management plans. NOAA will continue to conduct assessments of high priority stocks. Further, the major U.S. fisheries in the Fishery Conservation Zone in need of management are already under management regimes, or fishery management plans are being developed and will soon be approved to bring them under management. Consequently, work will be shifting from plan preparation to fishery monitoring to ensure that plan objectives are being met.

QUESTION:

A decrease of 72 positions and $4,543,000 is proposed for the habitat research program. Research conducted by this program is essential in determining the effects that habitat conditions have on fishery production. Without this vital quantitative information, how does NOAA propose to predict the effect that habitat alterations will have upon the U.S. fishing industry?

ANSWER:

We agree that habitat conditions play an important role in the various life stages of important commercial and recreational species of fish nationwide. However, we believe that the FY 1984 budget proposal represents a proper balance of programs needed to conserve, manage and develop our fishery resources. The highest priority habitat research will be continued by NMFS. In addition, we expect coastal states, through their coastal zone management plans and industry, universities and private organizations to take a more active role in research programs on habitat issues that are of significance to the local or regional residents and industries.

QUESTION:

The Market News program supplies vital information on the commercial and recreational harvesting of living marine resources to the U.S. fishing industry. A decrease of $3,000,000 is proposed to terminate this program. Has a source in the private sector been located that will supply this vital information?

ANSWER:

The termination of market news is one option associated with the proposed $3 million reduction. No financing was provided for this program in the FY 1983 2nd Continuing Resolution. Funding for this program is not included in the FY 1984 request.

Although efforts are currently underway, a source in the private sector has not yet been identified which could continue the service. NOAA is exploring the feasibility of transferring the publication and distribution function to the private sector. With this approach, NOAA would need to continue to collect market data with a contractor fulfilling the service functions. The contractor would price the reports to cover costs of the service functions and a profit.

QUESTION:

In 1981 the commercial U.S. fish landings within three miles of our coast was 1,634,622 metric tons. In total landings and value this represents slightly more than 50 percent of the totals for U.S. waters. Bearing in mind that such a large percentage of the total commercial landings are from near-shore waters, what is the rationale for reducing research in these areas?

ANSWER:

The fisheries occurring primarily within the territorial sea, i.e., the near-shore waters, fall within the management jurisdiction of the states. As such, the states should have primary responsibility for supporting research in these areas.

Regional Fishery Management Councils

QUESTION:

The funding for the Regional Fishery Management Councils has been proposed to be cut by 57 percent. Can the councils function with such a drastic cut in funding or will they exist in name only with remaining funds covering administrative functions?

ANSWER:

Regional Council workloads will be shifting from plan preparation to fishery monitoring to ensure plan objectives are being met. The reduction in funding is associated with this shift from plan development to plan implementation. Fishery monitoring requires a more routine effort as contrasted with the one-time special resource and fishery information acquisition needed by the Councils for optimum yield issue resolution and plan development.

QUESTION:

How many mixed species plans have the Fishery Management Councils initiated to date?

ANSWER:

The Councils have initiated the following mixed species plans to date:

Mixed Species FMP's implemented

Atlantic Groundfish
Atlantic Surf clams and Ocean Quahogs
Gulf Shrimp
California, Oregon, Washington Salmon
High Seas Salmon
Bering Sea Groundfish
Pacific Groundfish
Gulf of Alaska Groundfish
Coastal Migratory Pacific Resources
Squid, Mackerel, and Butterfish

Mixed Species FMP's approved but not implemented

Western Pacific Precious Coral
Atlantic Billfishes and Sharks

Mixed FMP's undergoing Review

Gulf and South Atlantic Corals
Gulf of Mexico Reef Fish

QUESTION:

Can the Councils develop and initiate such mixed species plans and underutilized species plans if the proposed 57 percent funding cuts are approved?

ANSWER:

The major U.S. fisheries in the Fishery Conservation Zone in need of management are either already under management regimes or FMP's are developed and will soon be approved to bring them under management. Council workloads will be shifting from plan preparation to fishery monitoring to ensure plan objectives are being met. We believe the level of activity required can be accomplished by the Councils at the proposed funding levels.

Commercial and Anadromous Grants

QUESTION:

The fishing industry is basically fragmented and its ability to develop to the extent of other industries is doubtful. If fishing development grants to states were eliminated, would the fishing industry continue efforts in the research and development area?

ANSWER:

The majority of the research and development activities on commerical fishery resources supported by grants to states under the Commmercial Fisheries Research and Development Act of 1964 (P.L. 88-309) and the Anadromous Fisheries Grants (P.L. 89-304) are directed toward meeting state fishery management responsibilities. It is therefore more appropriate for industry and the states to work together in research and development efforts in this area. Efforts will be made to encourage states and industry to continue efforts in the fisheries research and development area.

QUESTION:

If these grants to states under the Commercial Fisheries Research and Development Act were terminated, what would NOAA's involvement be in fisheries research and development?

ANSWER:

NOAA would continue to be involved in fisheries research and development activities through the NMFS programs at the level of effort identified in the FY 1984 budget proposal. This level of effort is expected to provide NOAA with the ability to supply information and services necessary for the conservation, management, and development of high priority fisheries.

QUESTION:

Pacific coast hatcheries built or operated by grants under the Anadromous Fish Conservation Act produce over ten million salmon and steelhead trout annually and have saved 10 to 12 million salmon annually from irrigation systems. What would the impact on these stocks be if funding were terminated?

ANSWER:

Options for alternative funding of the operations and maintenance of the Columbia River Hatcheries and fish diversion devices are being considered. The states of Washington and Oregon have not yet agreed to provide alternative funding as Federal funding is phased out. Funding from the Bonneville Power Administration is one of several possible actions being evaluated.

QUESTION:

Of the 22 Federally funded Hatcheries, how many would be adversely affected by the reduced funding?

ANSWER:

The budget anticipates that an alternative funding source would replace Federal funding and there would be no adverse impact on any of the hatcheries on the Columbia River.

Habitat Conservation

QUESTION:

With the proposed reductions in habitat conservation, Environmental Impact Statements would be reduced by 25 percent. Will NOAA be capable of minimizing or eliminating adverse impacts on marine fish populations before they occur by suggesting ways to redesign projects to be compatible with a healthy marine environment?

ANSWER:

We believe that the FY 1984 budget proposal represents a proper balance of programs needed to conserve, manage, and develop our fishery resources. We also believe that it is more appropriate for the various coastal states with their coastal zone management plans to protect the near-shore and coastal habitats. The highest priority NOAA habitat program activities will be continued under the FY 1984 proposal. Higher priority is generally placed on those projects which, by virtue of their magnitude may impact large or particularly productive habitat areas. Recommendations on these high priority projects will continue to suggest ways for their redesign to be compatible with the maintenance of a healthy marine environment.

Aquaculture

QUESTION:

Estimates of attainable annual production increases within ten years for commercially-important species of shellfish through aquaculture appear to greatly outweigh the estimated annual research outlay. From an economic standpoint, the annual research outlay appears to be well worth the potential increase in production. Please comment.

ANSWER:

The basic information defining requirements and problems associated with the culture of shellfish has been developed by NOAA and others. We believe the level of this information is now adequate to permit industry to make informed decisions regarding the economic risk associated with undertaking commercial development of acquaculture. Consequently, commercial development and refinement of proprietary culture systems are more appropriately private sector responsibilities if a successful aquaculture industry is to develop in this country.

QUESTION:

Aquaculture research has received little support from NOAA. In light of the fact that aquaculture has the potential of solving world food problems in the years to come, doesn't NOAA feel it has an obligation to continue research in this area?

ANSWER:

While aquaculture has the potential to supplement the production of fishery products from wild stocks for certain high demand species and as a supplementary crop in certain agriculture practices, it is unlikely to solve the world food problems. Federal research conducted by NOAA has helped to advance our knowledge concerning the culture of numerous species to the point that industry can now begin to assume responsibility for developing proprietary culture systems. Further, aquaculture research is being undertaken by other Federal agencies and the states.

QUESTION:

The Administration proposes to terminate the Aquaculture program and RIF 66 employees in the process. If funding for aquaculture research is terminated, what will NOAA's involvement be in non-salmonoid aquaculture activities?

ANSWER:

NOAA would continue to be represented on joint agency comittees involving aquaculture planning, on an "ad-hoc" basis, but would not conduct aquaculture research involving non-salmonids, or any other species.

QUESTION:

The rationale for terminating aquaculture is that industry will take an increased responsibility in this area. Aquaculture still is in its infancy and it is my opinion that currently there is not sufficient economic incentive for industry to invest in aquaculture. Please comment.

ANSWER:

Industry is currently investing in aquaculture ventures for salmon, oysters, macrobrachium (fresh water shrimp) and shrimp. In fact, much of the U.S. industry investment in shrimp aquaculture has been made in Central America and Mexico because of lower labor costs. Industry sponsored pilot projects for the culture of other species; e.g., abalone, lobster, etc., are also underway based on university research findings. Consequently, we believe that there is enough information available for industry to proceed without further Federal support.

QUESTION:

In 1982, the U.S. commercial landings of shrimp was $590,100,000--the highest value of all U.S. commercial landings. The Galveston, Texas Lab, which deals almost exclusively with shrimp aquaculture and survey technology, is scheduled for closure in FY 1984. Bearing in mind the economic importance of the shrimp fishery, does this seem like a responsible move on NOAA's part?

ANSWER:

The Texas A & M University is conducting an outstanding shrimp aquaculture research program supported primarily by non-Federal sources which should be able to continue the pioneering work done at the Galveston Laboratory. Further, the high priority shrimp management work will be transferred to other NOAA fisheries laboratories in the Southeast when the Galveston facility is closed.

QUESTION:

Which U.S. fishery contributes the largest share of value to our nation's edible fish exports?

ANSWER:

The salmon fishery contributes the largest share of value to our nations edible fish exports. In 1982, approximately $562 million worth of fresh, frozen, and canned slamon and salmon products were exported.

QUESTION:

How much of NOAA's $5.3 million cut in aquaculture will affect salmonoid culture in the Pacific Northwest?

Approximately $2.0 million of the proposed aquaculture program reduction will involve salmonid culture in the Pacific Northwest.

NOAA SHIP OPERATIONS

QUESTION:

The total days at sea (DAS) for the NOAA fleet is proposed to be reduced from 4,314 in FY 1983 to 2,160 in FY 1984--a total reduction of 2,154 DAS, can NOAA adequately meet its research objectives?

ANSWER:

Charting and circulatory vessels - The SURVEYOR is proposed for layup as the need for outer continental shelf environmental assessements is decreasing and the polymetallic sulfide program is proposed for termination. Lay-up of the FERREL will not adversely affect Tidal Current Prediction Tables and Tidal Current Charts in the intermediate term. Critical surveys can be performed with other vessels on an as-needed basis.

Research vessel - The 30 DAS scheduled for RESEARCHER would have been used to support priority ocean climate, atmospheric quality and marine pollution studies. Loss of these DAS will be compensated by delaying planned outputs and scheduling additional field work in future years.

QUESTION:

In order to assure scientific credibility and accurate fish stock assessments, consistent and reliable survey results must be obtained. With the proposed cuts in DAS and shifting from NMFS vessels to chartering private vessels, how can NOAA determine accurate fish stock assessments and make predictions on future stock trends?

ANSWER:

The proposed shift from NOAA vessels to private charter and the associated budget reduction will result in a number of fishery surveys being discontinued or reduced in scope. Several of these surveys are one-time or special purpose in nature and are less important for making accurate fish stock assessment survey efforts. We believe the remaining multi-species survey will provide the resource information needed for those management decisions which must be made in FY 1984 and for supplying information used for managing existing high priority fisheries.

ATMOSPHERIC PROGRAMS

QUESTION:

What portion of NOAA's first global atmospheric research experiment funding reduction will fall on the university community?

ANSWER:

A majority of the $1.0 million reduction of NOAA funding for the First GARP Global Experiment (FGGE) is associated with a 50 percent reduction of NOAA's share of the joint NOAA/NSF funded grants to universities for research associated with FGGE objectives. The remainder of the FGGE decrease will be in NOAA-funded FGGE research program.

QUESTION:

NOAA's World Climate Research Program builds directly on the first global atmospheric research experiment by operationalizing predictive models and maintaining several observing systems deployed in 1979. What are some of the economic benefits that the world climate research program is designed to provide for U.S. and international enterprise?

ANSWER:

Climate and climate change have major effects on agricultural production and world food demand, energy use and distribution, land and water resources, and other socioeconomic activities. Specifically, the recent warming in the tropical Pacific, El Nino, has been associated with several devastating climate fluctuations world wide. For example (losses in $ million in parentheses): droughts in Mexico (400), South Africal (600), India and Sri Lanka (500), Philippines (100), Indonesia (500), and Australia (2,000); floods in Ecuador (180), Peru (500), and Bolivia (170); and in the United States, storms in the Pacific states (500) and floods in the southeast (300). In addition there was a substantial decrease to the South American fishing industry and nearly 700 lives lost globally not counting long term effects of disease and starvation.

NOAA's climate research effort will address the long term needs of U.S. business and industry through study of the physical processes which cause climate variability. In FY 1984, we propose to direct our efforts toward recent discoveries regarding the El Nino phenomenon referred to above. Building on the results of FGGE and other recent ocean-atmospheric interaction studies, a research program (OACIS) is being implemented to accelerate understanding of large-scale oceanic and atmospheric oscillations and events such as El Nino, which result from their interaction. Through this effort, we hope to improve predictions of regional climate variation over North America and other economically important regions of the globe.

QUESTION:

NOAA proposes to reduce world climate research by $1.2 million. Are the other nations which are participating in this project prepared to pick up this funding reduction?

ANSWER:

There is currently no guarantee that any specific nations will supplement current global climate research. The U.S National Climate Program Office; however, is trying to offset some of this reduction through contributions from other U.S. agencies.

QUESTION:

OMB examiners have proposed that responsibility for Space Environment Lab (SEL) funding should probably be transferred to DoD and/or NASA. Both DoD and NASA have stated that they did not have mission responsibility for a common SEL service as OMB circular A-62 designates NOAA responsible for the common service. Please comment.

ANSWER:

The Department of Commerce, NOAA, in accordance with OMB Circular A-62, has provided space environment common services to all Federal agencies and the public since 1966.

Since NOAA itself, however, is only a minor user of solar-terrestrial services, the possibility of transferring the agencies to the major users, DoD and NASA, is being explored. Each of these agencies is currently examining its own solar information needs and costs. Following completion of their assessments, a final determination will be made as to the most efficient designation of responsibility for solar research and services.

In addition,under the auspices of the Office of the Federal Coordinator for Meteorological Services and Supporting Research, a National Plan for Space Environment Services and Supporting Research, is being prepared. This plan will aid our efforts to determine the most efficient means of conducting the space environment work needed throughout the Federal government. After approval by the Federal agencies, the plan will be released in July 1983.

QUESTION:

If the Committee accepts the $2.222 million SEL funding reduction proposed by NOAA, what is the likelhood that NOAA would have to reprogram increased funds for SEL some time in FY 1984?

ANSWER:

The Administration Budget for NOAA proposes a $3.1 million reduction from $5.3 million, leaving a base of $2.222 million to operate the SEL. NOAA plans to operate the SEL common services program at this level of funding but will reduce its hours of operation and discontinue the research component. If the Federal agencies relying on this common service, primarily DoD and NASA, desire additional hours of operation or continuation of certain research elements, this can be arranged provided that those agencies contribute the necessary funding.

QUESTION:

If DoD or NASA begin to fund SEL to meet their own needs, will SEL services remain available to other federal agencies or civilian needs?

ANSWER:

No definitive determination has yet been made as to which solar-terrestrial services should continue to be provided to other Federal agencies and civilian users or who should be responsibile for providing such services. As noted before, the Office of the Federal Coordinator for Meteorological Services and Supporting Research is preparing a National Plan for Space Environment Services and Supporting Research. Its release, after approval by the Federal Agencies involved, is planned in July 1983. This Plan will aid our efforts to determine the most efficient means to ensure that solar-terrestrial services required by the Federal Government and civilian users continue to be provided. Meanwhile, NOAA will continue to operate the SEL common services program at the proposed funding level.

Fire Weather Programs

QUESTION:

The fire weather offices of the National Weather Service provide fire weather warnings on public forestlands and a host of meteorological services including prescribed burning, insect and disease control, reforestation, and smoke management. This program is proposed to be reduced by 50 percent which will close 13 offices and reduce staff in an additional seven. What percentage of this program deals with monitoring federally-owned land?

ANSWER:

The proposal would result in five station closures, elimination of the program at another eight stations, and reduced service at seven. The total acreage under protection by the fire weather program is approximately 1-1/2 billion acres, of which 680 million acres (45%) are federally-owned.

QUESTION:

How will this reduction of the fire weather program impact our ability to maintain national park lands and forests?

ANSWER:

NOAA's reduction will not impact the ability to maintain national parklands and forests. NWS will continue to issue forecasts for the largest, most dangerous wildfires and will retain ten of the fire weather mobile units. Generalized public forecasts will continue to be available to guide forest management decisions.

NOAA CORE LIBRARY

QUESTION:

The Administration proposes eliminating funding for its core library service at a savings of $1,802K. As an alternative source of funding, is it NOAA's intent to prorate core library financing among individual users?

ANSWER:

Alternate NOAA funding for core library services is to be provided. The proposal is to fund the library as a NOAA-wide common services assessment with a yearly transfer to NESDIS. NESDIS will develop the yearly operational budget for the library service.

QUESTION:

If funding for core library services came from individual users, there apparently would be that much less money to put towards other program needs. Please comment.

ANSWER:

The NOAA library system is primarily for NOAA users. When bibliographic searches are made for outside users they are currently billed at the cost of performing the service. While the mechanism for a cost distribution for the core library service has not been fully examined, one proposal is to treat the library similarly to a common service account. This will result in a yearly assessment to NOAA operating elements.

QUESTIONS SUBMITTED BY SENATOR INOUYE

Elimination of the Bipolar Satellite System

QUESTION:

Current weather observation data is essential for the forecasting of serious weather phenomena such as hurricanes and tropical storms. Hawaii is acutely vulnerable to these phenomena and thus requires accurate, advance notice of their arrival. With the present system of two polar orbiters, atmospheric soundings can be taken up to four times a day. If the system were cut to a single satellite, however, soundings could be taken only twice a day. Do you believe that in light of Hawaii's vulnerability that this reduction of satellite coverage is acceptable? If not, what steps would be taken to assure adequate protection for the State?

ANSWER:

It is true that reduction in the number of polar-orbiting satellites from two to one will result in an equivalent diminuation of the frequency and quantity of temperature soundings obtained in support of weather analysis and forecasting. However, the reduction in forecast accuracy is considerably less significant.

Assuming that satellites achieve a nominal life expectancy in a one-polar system, reduction from a two- to a one-polar orbit system would have a small but measurable impact upon the quality of large-scale numerical weather forecasts. The situation which would cause some problems is the zero polar orbiter system. Hawaii, located in a generally data sparse area, would be affected should this occur. The likelihood of this occuring is not great and a replacement satellite would be launched in approximately 150 days.

It is assumed that the GOES-West satellite would continue to provide continuous image products that are useful for short-term forecasting purposes. Loss of the GOES-West in conjunction with reduction to a single polar satellite would further diminish the ability to provide detailed forecasts for the region around Hawaii. We would not, however, lose the capability of locating and tracking severe storms, but rather the accuracy with which "land-fall" can be predicted in advance. The GOES-East satellite can be moved to a central location providing routine coverage of the eastern Pacific through the area encompassing Hawaii. The Polar Satellite would continue to provide data over the total Pacific basin. Through the period prior to replacement of a GOES-West, the polar satellite by itself could be relied upon to provide alerts and warnings.

QUESTION:

I am especially concerned that the elimination of the second polar orbiter would impose an excessive risk on Hawaii with respect to the prediction of tropical storms. If the western geostationary weather satellite should fail, as it did shortly after Hurricane Iwa, is it possible to provide Hawaii with accurate weather forecasts using the eastern GOES satellite alone?

ANSWER:

The geostationary and polar-orbiting satellites of NOAA are complementary. Elimination of a single polar satellite by itself will have little effect on our ability to monitor and predict the movement of storms that will be of consequence to Hawaii. Loss of the GOES-West satellite in conjunction with reduction to a one-polar system will reduce our ability to predict the probable track of severe storms in the equatorial Pacific. Should we experience failure of the GOES-West after reduction to a one-polar configuration, two options are available. These are:

(1) The GOES-East satellite can be moved to a central location providing routine coverage of the eastern Pacific through the area encompassing Hawaii. The polar satellite would continue to provide data over the total Pacific basin.

(2) Through the period prior to replacement of a GOES-West, the polar satellite by itself could be relied upon to provide alerts and warnings. Though the ability to accurately track severe storms would be significantly diminished, no storm would go undetected with the GOES/VAS soundings operational on the GOES-East satellite. Warnings would, by their very nature, be more general and prone to error, but the public would be advised of approaching storms and could take steps necessary to prepare for them. Increased aircraft reconnaissance flights would help to accurately track and predict storm paths.

Our decision to reduce the number of polar satellites from two to one assumes that the likelihood of failure of either the geostationary and polar satellites is low and the likelihood of failure of both at the same time is extremely low.

QUESTION:

It is my understanding that one of the possible effects of downgrading NOAA's polar orbiting satellite system to a single satellite would be the degradation of the quality of 2-5 day forecasts. This is because there would be a substantial reduction in the quantitative data (temperature and humidity as a function of altitude) collected by the polar orbiters which is needed for the National Meteorological Center's numerical prediction model. Do you agree with this assessment? If not, please explain why not. Specifically, what other sources of atmospheric soundings in the Pacific Ocean are there to make up for the loss of the polar orbiter?

ANSWER:

We estimate that reducing the polar-orbiting satellite system from two satellite to one would cause only a small degradation in the forecast skill to the 3 to 5 day forecasts averaged over a season or a year.

There are two important qualifying statements that must be considered:

(1) A single polar-orbiting satellite system is vulnerable to a failure of the in-orbit satellite. Replacement of the satellite with a new one will require at least 120 days and possibly up to

18 months. During this period, forecasts over the ocean areas including the region around Hawaii for even short periods in advance — a day or so — would be slightly degraded; the accuracy of medium range forecasts — 3 to 10 days would be noticibly diminished.

(2) The GOES-West satellite will remain operational to provide routine surveillence of the ocean areas surrounding Hawaii so that storms may be monitored and their tracks ascertained to avoid surprises.

The Merger of the Satellite Field Service Station (SFSS) With the National Weather Service (NWS)

Preface:

I have some serious concerns in this area as I feel that the termination of the Honolulu SFSS as an independent operation would have far-reaching implications for Hawaii. My apprehension is based on Hawaii's vulnerability to unpredictable tropical weather disturbances in the Pacific. Hawaii does not have neighboring states to receive inclement weather warnings from — we must be totally self-sufficient. This situation creates for Hawaii a unique dependence on accurate and timely weather forecasting services. Thus, I am quite concerned when I see the quality of these services and consequently the welfare of Hawaii's people threatened over a savings of only $100,000. Therefore, allow me to address to you the following questions.

Question:

In your testimony before the Appropriation Subcommittee on Commerce, Justice, State, and Judiciary you assured us that the changes proposed in NOAA's FY-1984 budget would streamline operations "without sacrificing services." It had come to my attention, however, that the proposed merger of the Honolulu SFSS with the NWS would result in the reduction of satellite monitoring for Hawaii from 24 hours to 16 hours a day.

The implications of this loss of coverage for Hawaii are quite distressing considering that in tropical weather systems, 8 hours is a very significant amount of time. Hawaii's most frequently forecast weather problems, thunderstorms which produce flash floods, often appear and disappear in a matter of just a few hours. Without constant surveillance of satellite pictures, these storms and flash floods - Hawaii averages 22 flash flood warnings and watches per month - could sneak up on Hawaii and cause great property damage and personal injury.

Given these concerns, the proposed system of having a satellite specialist "on call" rather than on duty for 8 overnight hours seems inadequate. Monitoring, identifying, and interpreting information contained in the computer-enhanced infrared pictures received from the satellites are time-consuming tasks, especially during the night. To leave the satellite specialist's post unmanned for 8 hours a day would open a window of vulnerability for Hawaii. Could you please address these concerns? Specifically, how would these lost services be replaced so that Hawaii would not be placed in a compromised position?

ANSWER:

The intent of the proposed merger of SSFS's with the WSFO's was not to reduce hours of coverage. Adequate funds will be made available within the request to provide 24 hour availability of a satellite specialist within the Weather Service Forecast Office. Further, to assure continued availability of satellite imagery at Honolulu, no satellite data lines will be terminated nor will any currently in-place satellite photo receivers be removed. Additionally, there are no plans to reduce the present level of contract support.

We are sensitive to the plight of the Hawaiian Islands in their vulnerability to hurricanes. In the event of a major tropical storm, such as hurricane Iwa, adequate staff will be available in order to ensure that public warnings and forecasts are issued in a timely and expeditious manner.

QUESTION:

Hawaii - one of the states most subject to unpredictable weather would be the only state to lose its around-the-clock satellite monitoring. Hawaii relies heavily on satellite monitoring for its weather forecasting services. We currently have no weather radar in Hawaii and the best national computer weather forecasts cuts off north of Hawaii. Also, most of the weather systems which cause problems in Hawaii are too small and isolated to appear on regular weather maps. These systems do show up on satellite pictures, but it requires skilled and experienced personnel working around the clock to read and interpret these pictures if Hawaii is to be provided with vital up-to-the-minute forecasts. If Hawaii's 24 hour coverage is rolled back to 16 hours, how will the state receive the continuous and accurate weather forecasts on which it depends?

ANSWER:

Twenty-four hour coverage will be maintained.

QUESTION:

The transfer of the SFSS to NWS jurisdiction would have a profound effect on the responsibilities and duties of Hawaii's satellite specialists. Currently, the staff of the SFSS concentrates solely on the monitoring and processing of satellite information. As employees of the NWS, these skilled satellite experts would have to spend much of their time performing other tasks such as public service, aviation, and marine services. This would prevent satellite experts from concentrating on their speciality and would hinder them in their attempts to keep abreast of the rapid changes in this intricate and fast moving new field.

I am concerned that turning these specialists into generalists would cause a degradation of their skills and capabilities and this would be reflected in lower quality weather forecasting for Hawaii. The NWS has multifarious responsibilities and tasks to perform. To expect them to also manage the incoming satellite data flow and simultaneously perform the detailed services our satellite experts from the SFSS so competently handle seems questionable to me.

Given the needs of Hawaii, do you feel that we can afford to sacrifice the satellite expertise we have developed and upon which we depend for the sake of minimal savings?

ANSWER:

With consolidation of the seven SFSS's into the field operations of the NWS, several criteria were used in developing the proposed structure: (1) an identifiable satellite organizational unit would remain at all seven locations, (2) all satellite meteorologists assigned to NWS will work in their speciality at least 70 percent of the time, and (3) the NWS field satellite activity will rely in large part, especially at the smaller staffed offices, on transfer of proven satellite technology from NESDIS facilities and vice versa.

We also are of the opinion that there will be a diffusion of satellite expertise that will work to the benefit of all of NOAA and will, in particular, enhance the capability of the NWS to provide timely and accurate forecasts and warnings.

And finally, we view satellite data interpretive skills as an integral part of the repertoire of all our forecasters, such that by necessity all forecasters must feel an obligation to keep-up with advances in the state-of-the-art. We believe that the structures we have proposed will accomplish these purposes.

QUESTION:

Honolulu's SFSS currently services 25 customers besides the NWS. These customers include many organizations which provide vital public services such as the Department of the Interior, the Department of Defense, the FAA, the news media, and aviation activities operating out of Honolulu International Airport (indeed all long-haul aircraft leaving Honolulu are provided with hand-annotated satellite pictures).

If the SFSS lost its independent standing and became absorbed by the NWS, what effect would this have on these customers? How could the NWS's satellite experts, with the great demands they have on their time, adequately service these organizations whose duties are so vital to the people of Hawaii and the nation? If the NWS is unable to fulfull these needs who then will pick up the slack and provide the high level of consistent satellite support these customers depend on?

ANSWER:

We don't expect a significant loss of services to non-NOAA users of satellite data. There are no plans to reduce the 24-hour availabiltiy of satellite data. Since we do not plan to eliminate satellite data lines, photo receivers, or reduce the level of contract maintenance support, the satellite imagery will be available round-the-clock.

QUESTIONS SUBMITTED BY SENATOR HOLLINGS

A-76 Studies

QUESTION:

The Subcommittee has been supplied with a copy of the opinion of March 16, 1983 by Marilyn G. Wagner to James W. Winchester regarding OMB Circular A-76. This opinion states "a reprogramming notice would not be required in conjunction with the conduct of an A-76 study . . . where a reduction in personnel or expenditures will result. . . . "

How does that opinion square with Public Law 97-377 (The Continuing Resolution). which was based on S. 2956 as reported in the Senate on September 24, 1982, specifically Section 508 that provided for notice to the Committee when a proposed reprogramming would result in the relocation of offices or employees? Does the Office of the Assistant Secretary for Administration concur in this opinion?

ANSWER:

The March 16, 1983, opinion is consistent with section 508. As a matter of law, a reprogramming notice is not required either to conduct an A-76 study or to convert an activity to a contract operation pursuant to an A-76 study. Section 508 requires 15 days notice to the Appropriations Committees when any one of five listed actions (including relocating employees) is proposed, but only if the action entails a reprogramming of funds, i.e., a debit from one line item and credit to another within a lump sum appropriation. Neither an A-76 study nor a conversion of an activity to a contractor pursuant to an A-76 study necessarily involves a reprogramming of funds.

Nonetheless, the Department is committed to the policy and practice of fully informing the Appropriations Subcommittees in advance of any significant changes within the Department, whether or not the proposed changes involve a reprogramming. We will inform you of all significant A-76 studies undertaken in this Department.

The Surplus Construction Funds

QUESTION:

On April 5, 1983, the Acting General Counsel of the GAO informed the Congress that the Office of Management and Budget had apportioned the $2 million that had been proposed for rescission from NOAA's construction appropriation. These funds were made available because Congress had failed to rescind this money. It had previously been indicated that NOAA had no use for this money, and is NOAA now making any plans to use it?

ANSWER:

Yes. The House Committee has recommended the $2 million be transferred to the Operations, Research and Facilities account to offset the FY 1983 pay raise requirements.

QUESTIONS SUBMITTED BY SENATOR ANDREWS

Research Activities

QUESTION:

Where does NOAA derive its mandate to place the major emphasis on basic research?

ANSWER:

Most NOAA enabling legislation deals directly with providing atmospheric and oceanographic services, which require research to maintain technical currency. An example of directly mandated legislation for research is Section 202, Marine Protection, Research, and Sanctuaries Act of 1972, P.L. 92-532 (33 USC 1442), which explicitly states that NOAA perform research to determine the long-term effects of pollutants on the marine ecosystem. Other principal acts include:

- National Ocean Pollution Planning Act - 33 USC 1704
- Reorganization Act No. 4 of 1970 - 15 USC 1511 NT - Sec. 1c, 1e
- Coast and Geodetic Survey - 33 USC 883a
- Weather Bureau Act 15 USC 313, 313a
- Act of June 16, 1948 - 15 USC 313 NT 62 Stat. 470
- Acid Rain Research - 42 USC 8902

QUESTION:

Doesn't the federal government already have the National Science Foundation to conduct basic research?

ANSWER:

NSF was established in 1950 "To promote the progress of science" (Public Law 507, 81st Congress). Accordingly, their research process involves unsolicited proposals from university researchers. peer evaluation of proposals, and peer evaluation of research results through reports and publications. NOAA is a mission agency established to provide identified services to other governmental agencies and the public. Accordingly, our basic and applied research is targeted to these mission goals. Historically, there have been consistent statements by Presidents, their Science Advisors, and Science Boards, that research should be broadly supported by mission agencies, and that NSF should provide the foundational support for basic research that could not yet be identified with agency mission goals. For example, in an August 15, 1977 OMB memo to the Heads of Executive Departments and Agencies, the agencies were to assure an appropriate balance between basic or long-term research and shorter-term applied research in carrying out Federal responsibilities; and in an October 18, 1974 Resolution adopted by the National Science Board, the Director of NSF was urged to discuss the need for mission agencies to maintain strong research programs appropriate to their missions.

QUESTION:

Should NOAA's current basic research programs be turned over to the National Science Foundation, therefore, streamlining the Federal role in basic research? Turning the basic research over to the National Science Foundation would then give NOAA a clear directive to accomplish applied research and development in agriculture meterology, atmospheric resource impacts and costal management programs.

ANSWER:

All NOAA research, short-term and long-term, is targeted to flow into the improvement of NOAA mission operations. Therefore, it is most effectively conducted in close organizational interaction with those mission operations. In contrast, NSF provides the foundational support for basic research that is not yet identified with agency mission goals.

QUESTION:

What are the agency impacts from the budget cuts from weather modification research in NOAA's allied research areas?

ANSWER:

The weather modification budget cuts reduced basic research on physical processes in hurricanes needed to gain understanding of their three-dimensional structure and motion; terminated most NOAA research in mesoscale weather systems, cloud physics, and boundary layer dynamics; and terminated analyses of data from weather modification field programs such as the Florida Area Cumulus Experiment.

QUESTION:

What new initiatives have been or are being developed to replace weather modification research activities in the Environmental Research Laboratories?

ANSWER:

NOAA has requested an increase in base funds of $2,000,000 in FY 1984 for severe weather research to improve forecasts of extreme precipitation events, such as flash floods and paralyzing snowfalls, and accompanying phenomena including hail, high winds, gust fronts, tornadoes, lightning, poor visibility, and icing.

QUESTION:

How important are these developing programs?

ANSWER:

Improved accuracy in precipitation forecasts is the most urgent present need of the National Weather Services and private meteorologists. Tornadoes continue to cause death and property losses in the U.S. Severe winds events, including microbursts, cause property damage and potential hazards to aircraft. The annual savings to be realized by the nation from significant improvement in severe weather warning and prediction capabilities are estimated at about $2 billion and several hundred lives.

QUESTION:

Please provide summaries of such proposals.

ANSWER:

The proposed program will seek to improve severe weather prediction by (1) upgrading current NMC operational weather forecasting models to incorporate new understanding of the processes responsible for severe weather, (2) evaluating and extending the use of new satellite and ground-based remote sensors for severe weather diagnostics, and (3) training field forecasters in up-to-date techniques of mesoanalysis and prediction.

QUESTION:

What is the appropriate role for the federal government in applied atmospheric research and development?

ANSWER:

The appropriate role for each federal agency is to support the research necessary to improve their services to the public consistent with funds available and their agency mission. In atmospheric R&D these roles are subject to the requirements specified in OMB Circular A-62 for coordination through the Federal Coordinator for Meteorological Services and Supporting Research in NOAA. NOAA's climate research program, proposed for augmentation in FY 1984 through the Ocean Atmosphere Climate Interaction Study (OACIS) enhancement, is one example of NOAA's activities in fulfilling that roles.

QUESTION:

Since the federal government has never planned to be a major user of atmospheric resource programs, nor are they proprietary, such as a technology in weather modification; is this the reason that weather modification has had difficulty in acquiring long-term research programs?

ANSWER:

This may be a factor in the decline of emphasis on weather modification. A bigger factor, however, is the lack of any tangible success in this area despite years of effort. To date no one has clearly demonstrated that cloud seeding can routinely produce significant quantities of additional water on the ground. In a 1978 re-evaluation of ten recent projects by a statistical task force established by the Weather Modification Advisory Board, only one project, a randomized Israeli experiment to confirm the results of an earlier experiment to increase precipitation from winter clouds, was judged to have produced convincing evidence of positive results.

Within the past several years NOAA came to recognize that the response of cloud processes to seeding is more complicated than presently understood. Therefore, NOAA had already begun - before the current reduction proposal - to shift emphasis away from operational cloud seeding toward studies of the controlling cloud processes, understanding of which should lead to effective, operational techniques.

Administration

QUESTION:

Of the five assistant administrators of NOAA, why has only one been appointed and the remaining four remain on an acting basis?

ANSWER:

The Assistant Administration for Fisheries was not affected by the NOAA reorganization and is therefore not functioning in an acting capacity. The other four positions were affected by the reorganization and these positions have to be filled through the competition process. NOAA is actively pursuing the filling of these positions and expect to have permanent Administrators in the near future.

QUESTION:

It is my understanding that under NOAA's A-76 Review that radar and associated positions are to be contracted out. Is this true or are you currently making these considerations? The radar operations are very important to the public in the Great Plains. As you know the meteorological radar is the best early detection system for timely weather watches and warnings issued in the public's interest. Since NOAA is recommending, or at least considering these systems being contracted out, is NOAA also considering that the responsibility of issuing severe weather and tornado watches and warnings being issued by contract services? This is a very large responsibility for a private company of probably less than adequate financial support to assume even one liability case. Is it not like comparing a government to hiring mercenaries for its military defense? NOAA, FAA, and other federal agencies are currently developing the nation's next meteorological radar system currently called NEXRAD, a doppler radar able to show wind patterns from raindrops and certain cloud size particles. The expertise of how to use this system in operational modes will be developed by the federal agencies, how do you suggest the federal government just hand over these systems to untrained personnel, not only in the operations but up-keep? With the current radar systems working in the NOAA weather offices, the lead forecaster determines when operations need to begin and end. During periods when radar operators are not making radar surveillance measurements they are operating the NOAA radio, answering phone calls, making local observations, preparing weather wire messages and making local observations, preparing weather wire messages and making radiosonde launches. Do you expect the contracted services do all of these services? How have the radiosonde stations that are currently being operated by contract personnel performed as compared to NOAA operated radiosonde stations?

ANSWER:

Weather radar operations are not scheduled for study under OMB Circular A-76, and there are no present plans to study them in the future.

Radiosonde Observations

QUESTION:

How have the radiosonde stations that are currently being operated by contract personnel performed as compared to NOAA operated radiosonde stations?

ANSWER:

The acceptable error rate is 5.0 or less weighted errors per 100 radiosonde soundings. For the year 1982, the NOAA/National Weather Service stations had an average error rate of 1.96 weighted errors per 100 soundings; contract stations had 2.27.

QUESTION:

What percentage of radiosonde soundings are late for entry into the National Meteorological Center's forecast models? What percentage of reports never are filed?

ANSWER:

The acceptable timeliness rate is 93 percent of radiosonde sounding data reaching the National Meteorological Center (NMC) by the time the first model is run (on the average of 2 hours and 15 minutes after the time of the scheduled radiosonde sounding). For the year 1982, NOAA/National Weather Service stations had 96.9 percent of their observations reach NMC at that time; contract stations had 94.0 percent.

Two radiosonde soundings per day are scheduled at all radiosonde stations. For the year 1982, the NOAA/National Weather Service stations took and filed data for 99.47 percent of all scheduled soundings; contract stations took and filed data for 98.94 percent.

Of the soundings taken, the data from 2.6 percent are late for running the first model from NOAA/National Weather Service stations; 4.9 percent from contract stations.

Reports are never filed for .53 percent of the scheduled soundings from NOAA/National Weather Service stations; 1.06 percent from contract stations.

NACOA

QUESTION:

Why has NOAA not followed the National Advisory Board Committee on Oceans and Atmosphere recommendations to study the establishment of a quasi-government corporations in the private sector to undertake weather data acquistion, and basic analysis and forecasting functions before considering these changes?

ANSWER:

The question implies that NOAA is now considering having some National Weather Service functions such as basic analysis and forecasting performed by the private sector. No such action is planned. The study being conducted by BOOZ-ALLEN-HAMILTON, INC., will analyze the total weather services now being provided to the general public without cost, and then present recommendations as to which of these services, if any, the Federal Government should not provide to the general public at taxpayers' expense. Any services identified could then be provided by the private sector to specific clients on a service fee basis.

As regard to functions related to several weather service programs, the study may find that some types of data acquisition, systems development, equipment maintenance, etc., could be performed by private corporations under contract to the National Weather Service, at reduced cost and without loss of quality. If any of these activities were contracted out, however, the NWS will manage, direct, and fully control them.

QUESTIONS SUBMITTED BY SENATOR JACKSON

Bonneville Power Administrator

QUESTION:

Your FY 1984 budget request states that "draft legislation will be proposed to transfer the costs of hatchery operations and maintenance to the Bonneville Power Administration so that costs can be included in the electric rate base."

What is the status of the proposed draft legislation and would you please describe its major elements?

ANSWER:

Draft legislation was prepared and is presently under review by the Administration.

QUESTION:

How much would be added to Bonneville Power Administration's anticipated fish and wildlife budget for 1985 and beyond in order to fund Mitchell Act hatcheries?

ANSWER:

Requirements for hatchery operations and maintenance in FY 1985 are estimated at $8.1 million.

Columbia River

QUESTION:

The legislation authorizing the multi-purpose projects on the Columbia River recognized the substantial national benefits from these developments. The Mitchell Act (Public Law 75-502) reflected these national benefits and insured long-term support of the Columbia River hatchery mitigation program from general revenues.

How would you reply to the statement that the national taxpayers benefit from the multi-purpose development of the Columbia River?

ANSWER:

While economists may argue successfully that there are substantial national benefits accrued from the multi-purpose projects, they are minimal in relation to the regional benefits. The region benefits substantially from relatively inexpensive electric power. In addition to direct savings by customers, many industry jobs are created by the locating of electrical energy intensive plants. Water available for irrigation has increased land values and production potential. These are both primarily regional benefits.

QUESTION:

Does NOAA still believe that the responsibility for mitigation should be carried by those responsible for and benefitting from a development?

ANSWER:

Yes, this is still the Administration's policy.

QUESTION:

Do your recommendations to place the mitigation burden on the Northwest rate-payer alone reflect any federal responsibility for the multi-purpose development of the river?

ANSWER:

The multi-purpose development of the River benefits mainly the Pacific Northwest Region and its residents. Such an attitude is reflected by the Corps of Engineers in House document No. 403, in 1963 wherein it states: "A well balanced multi-purpose development of the water resources of the Columbia River Basin is of foremost concern to the people of the Pacific Northwest."

QUESTION:

The Northwest Power Act (Public Law 96-501) clearly indicates Congressional intent that Bonneville Power Administration fish and wildlife funding supplement -- not replace -- the existing Mitchell Act funding for mitigation. The Power Act imposes on the ratepayer a burden to enhance fish and Wildlife -- a burden not shared by other beneficiaries of the Columbia River.

How would Bonneville Power Administration's funding of mitigation under the Mitchell Act through the electrical rate base address the responsibilities of the other beneficiaries of the multi-purpose development of the Columbia River for mitigation?

ANSWER:

It would, based on our legislative proposal to require the same ratepayers to support hatchery facilities constructed under the Mitchell Act.

QUESTION:

Does Bonneville Power Administration revenue forecast and rate design for FY 1985 include funding Mitchell Act fisheries?

ANSWER:

No, Bonneville Power Administration Forecasts do not include support for Mitchell Act hatchery operation and maintenance.

SMALL BUSINESS ADMINISTRATION

STATEMENT OF JAMES C. SANDERS, ADMINISTRATOR, SMALL BUSINESS ADMINISTRATION

ACCOMPANIED BY:

HARRY S. CARVER, COMPTROLLER

EDWIN T. HOLLOWAY, ASSOCIATE ADMINISTRATOR FOR FINANCE AND INVESTMENT

PREPARED STATEMENT

Senator **Weicker**. Next we go to the Small Business Administration. We have our good friend, the Administrator, with us, Jim Sanders.

Jim, why don't you introduce those accompanying you at the table. Your statement in its entirety will be placed in the record at this point.

[The statement follows:]

Prepared Statement of James C. Sanders, Administrator, Small Business Administration

Mr. Chairman and Members of the Committee: It is a pleasure to appear before you to discuss the Agency's fiscal year 1984 Budget Request. Accompanying me is Harry S. Carver, our Comptroller, and Edwin T. Holloway, Associate Administrator for Finance and Investment. The request consists of budget authority in the amount of $506,200,000 for three items as follows:

(1) Business Loan and Investment Fund—Capital Appropriation: $249,000,000.

(2) Surety Bond Guarantees Revolving Fund—Capital Appropriation: $9,000.

(3) Salaries and Expenses—Direct Appropriation: $248,200,000.

Mr. Chairman, with your permission, before getting to the specific appropriation request items, I would like to briefly highlight our fiscal year 1984 Program. The reduction is SBA financial assistance is an integral part of the Administration's effort to reduce Federal credit programs and thereby increase private credit availability for businesses. It is felt that the small business community as a whole will benefit more from stabilized financial markets, reduced interest rates and a lowered inflation rate than from direct Federal credit subsidies. Subsidized direct loans increase the need for Federal borrowing and, because they can be provided to only a small fraction of the community, they tend to give unfair advantage to a small group over the much larger group of equally deserving non-subsidized small firms. Consequently, the budget request for SBA calls for elimination of subsidized direct loans, and $2.4 billion in new commitments for guaranteed loans, including $250 Million for development company assistance and $160 million for Small Business Investment Companies. There will be $41 million in direct financing for Minority Enterprise Small Business Investment Companies. SBA will provide priority assistance to minority, handicapped, and first-time borrowers where the market may overestimate the risk.

We plan to continue a vigorous debt collection program to curtail delinquencies and losses in our almost $18 billion portfolio. In line with this, we are proposing the continuation of some 275 temporaries for servicing disaster home and farm-related loans, and 150 temporaries assisting in the intensified liquidation effort.

The Agency will continue to emphasize its commitment to the minority small business community with particular emphasis placed on preservation or establishment of small concerns located in urban and rural areas with high proportions of unemployed or low income individuals. Steps will be taken to encourage minority subcontracting by Federal prime contractors. It is anticipated that in fiscal year

1984, 17 percent of SBA's guaranteed business loans will go to minority-owned firms. In addition, non-credit assistance such as the 7(j) professional consulting program has been increased by $5 million to $15 million for fiscal year 1984. In our business development effort, for the first time, by establishing a fixed period for long-time program firms to participate in the 8(a) program, we will provide the opportunity for other small disadvantaged businesses to enter and participate in the program and allow a more equitable distribution of the contract dollars.

Counseling and training under the Management Assistance activity will rely increasingly on the private sector, with such groups as SCORE/ACE, professional and trade associations, and the educational community providing an increasingly high quality of in-depth counseling. The various programs under the Procurement Assistance activity will continue to strive to assure that small business receives a fair share of the Federal procurement dollar. On the management side, the oversight and review functions of the Inspector General's office will be maintained at current levels and the upgrading of our data bank and exploration of areas for private sector involvement will continue.

No new authority is requested for three of the revolving funds for fiscal year 1984. The Disaster Loan Fund, through payments from prior year loans, will finance a program of $440,000,000 in physical disaster loans without new capital or borrowing authority. In fact, a negative outlay figure is forecasted. The Lease Guarantees Fund has sufficient balances to honor claims in fiscal year 1984. The same holds true for the Pollution Control Equipment Contract Guarantees Fund where fiscal year 1983 unobligated balances plus fiscal year 1984 receipts will generate a program of $150 million in new Pollution Control Bonds.

Now, Mr. Chairman, let me discuss the specific appropriation items.

BUSINESS LOAN AND INVESTMENT FUND

We are requesting a capital appropriation of $249,000,000 for fiscal year 1984 for the Business Loan and Investment Fund. This compares with $590.7 million of additional capital provided in fiscal year 1983 which includes the supplemental Job's Bill, Public Law 98-8. Total obligations for fiscal year 1984 will be $827 million offset by repayments and other financing of $578 million leaving $249 million as the additional capital required to achieve our program levels. Outlays are estimated at $186 million for fiscal year 1984 compared to $590.7 million in fiscal year 1983.

SURETY BOND GUARANTEES REVOLVING FUND

We are requesting $9 million in capital for the Surety Bond Guarantees Revolving Fund. No capital appropriation was required in fiscal year 1983. This will finance a program, when combined with carryover balances of approximately 14,000 contracts, insured in the amount of $1.08 billion.

SALARIES AND EXPENSES

A direct appropriation of $248,200,000 is requested for fiscal year 1984 for salaries and expenses of the Small Business Administration. In addition, $16,600,000 in transfer authority from the Disaster Loan Fund is requested for Disaster Loan Making ($10.6 million) and Disaster Loan Servicing ($6.0 million). The comparable figures for fiscal year 1983 are $221,809,000 in direct appropriation, $50,000,000 for the Natural Resource Program provided in the supplemental Job's Bill and $25,600,000 for the disaster transfer. In order to identify major minority assistance programs in one fund, the $15 million requested for Business Development Expenses associated with the 8(a) program has been transferred from the Business Loan and Investment Fund to Salaries and Expenses. Our request reflects no reductions in our authorized permanent positions of 3,910.

Mr. Chairman, this completes my brief review of SBA's budget request for fiscal year 1984. We will be pleased to answer any questions the Committee may have.

INTRODUCTION OF ASSOCIATES

Senator **Weicker**. You may proceed in any way you wish or however you feel most comfortable.

Mr. **Sanders**. Mr. Chairman, seated with me at the table are the Associate Administrator for Finance and Investment, Mr. Holloway, on my left; and on my right is my Comptroller, Mr. Harry Carver.

I have brought other members of the staff. As you ask the penetrating questions, I will defer to them.

I would like to just submit my statement, Mr. Chairman, with your permission, in the record and not take the time to read it.

Senator **Weicker**. Yes.

Mr. **Sanders**. Of course, I am available for your questions on our proposal.

Senator **Weicker**. All right. Why don't we move to questions.

First of all, there are questions to be submitted for response to the record by Senator Hollings and Senator Eagleton and Senator Laxalt, and there will be further questions for response to the record from me.

GUARANTEED LOAN PURCHASES

Senator **Weicker**. In the emergency jobs bill, Congress appropriated an additional $200 million for the business loan and investment fund in response to the increased defaults in SBA guaranteed loans. Will additional funds be necessary to repurchase guarantee obligations for the remainder of this fiscal year?

Mr. **Sanders**. For this fiscal year?

Senator **Weicker**. Yes.

Mr. **Sanders**. I believe that we will have the necessity for that. Would you run over some of those numbers, Mr. Carver?

Mr. **Carver**. Yes, sir. The $200 million that was provided in the jobs bill is about $116 million short of the administration's original estimate. It looks like we will probably still need at least that much to reach the level of repurchases.

Senator **Weicker**. An additional $116 million?

Mr. **Carver**. Yes, Senator.

Senator **Weicker**. In fiscal year 1984, SBA assumes a default rate on guaranteed loans of 18 percent, while CB0 estimates a 33-percent-default rate. Do you believe SBA's assumptions are overly optimistic? This differential represents a $180 million question for the Appropriations Committee.

Mr. **Sanders**. I think that is a real judgment call, Mr. Chairman. I think that we feel that the 18 percent might be a little slight in light of the experience we have had. Again I would like Mr. Carver to make some comments on that. He tracks this pretty closely, and has for some years.

Mr. **Carver**. The 18.6 percent was based on the assumption that the efforts in improving the quality of loan making would sooner or later appear and be reflected in the quality of the portfolio with a reduced level of purchases. It is optimistic, but the increases have basically flattened off some. Again, hopefully with the improvements in the economy it would be somewhere between the 18 and the 25 percent that we have projected in 1983.

Senator **Weicker**. Well, that is pretty big money, though. Let's assume the fact we are $116 million short. What are we going to do about that?

Mr. **Carver**. Our request to OMB is to resubmit the additional amount as a supplemental appropriation for 1983.

Senator **Weicker**. It is?

Mr. **Carver**. Yes, sir.

Senator **Weicker**. I think there is no point in sitting here and going back and forth. But it would seem to me that prior to our mark up of this bill, you really ought to sit down with my staff and maybe do some other calculations. This is not a matter of policy we are discussing here. It is a matter of sound fiscal practice. If you think maybe it is going to be a little on the light side, let's bring it to the point where it should be, regardless of whether or not it is looked upon with disfavor, because we are supposed to be in boom times. I think we are. I think the administration is doing a good job and we are moving toward a recovery. But we have to take care of the problem that exists right now. Let's face up to it.

ELIMINATION OF DIRECT LOANS

With the exception of loans to minority enterprise small business companies, SBA recommends the elimination of the direct loan program. What was the rationale for proposing elimination of this program?

Mr. **Sanders**. Mr. Chairman, as you know, we have supported this position for some time. We feel, and I am more convinced the longer I have been with the agency, that the expenditure of resources, both monetary and human resources, in the agency's direct loan program is a wasteful use of our resources. I would like to see these kinds of resources used in our other programs, particularly in the expansion of our guaranteed loan program. As you know, we have some great hopes to expand the role of banks in our preferred lending program. We have offered that now in one region and we hope to have two more involved in that very shortly.

Insofar as the level of the guaranteed lending program, I think that in consideration for supporting that request by the administration to eliminate the direct lending, I believe that we could possibly negotiate a higher level of commitment to the guaranteed lending. That is something we would like to pursue. We feel that this relates more to real job development in the long-term development of all kinds of small businesses, including our commitment to minority small businesses on the part of the guaranteed loans.

Senator **Weicker**. I am inclined to agree with your position on direct loans, but with one exception. I am strongly opposed to eliminating the direct loan program for businesses owned by handicapped individuals, since for so many individuals that is the only source of funding available to them. Why was this program eliminated; and, in your view, should it be continued?

Mr. **Sanders**. Well, let me say I don't disagree with you on that point. As a matter of fact, in consideration of support for the elimination of the direct lending program, I think that maybe we could get a commitment to make an exception in the case of direct lending for handicapped loans. You had a figure in mind for the cap there? Was it $15 million?

Senator **Weicker**. Fifteen was the authorized level. I have no problems, with that exception. I might add, I was about to ask about the upping of the level of the guaranteed loan program, but you covered it in your first answer. So it seems to me, if those two things could be achieved, I would certainly be inclined to go along with the administration's proposal.

SBIC FINANCING

I recently received a letter from an SBIC in Connecticut seeking additional leverage funds. SBA was able to provide only one-third of the funds requested. Is there a shortage of funds for the SBIC program in this fiscal year? What is the demand for the program?

Mr. **Sanders**. Ed, would you like to comment on some SBIC activities?

Mr. **Holloway**. Yes, sir.

Mr. Chairman, our budget for this year, the investment company leverage budget, has been what we have termed lean but adequate. We really expect to have enough authority for the balance of this fiscal year to accommodate the requests for leverage where the criteria are met in terms of credit and regulatory requirements.

Senator **Weicker**. We will include this letter of April 7, 1983, from Regional Financial Enterprises, Inc., Stamford, Conn., in the record at this point.

[The letter follows:]

LETTER FROM ROBERT M. WILLIAMS, CHAIRMAN OF THE BOARD, REGIONAL FINANCIAL ENTERPRISES, INC.

Dear Senator Weicker: My associate, George Thomassy, and I recall with pleasure our meeting last year when you volunteered your help in helping our Connecticut SBIC become more active in promoting small business growth.

During the past three years, we have invested almost all of Regional Financial Enterprises' private capital of $12 million. On March 1, we applied for our first leverage from the Small Business Administration in the amount of $3 million—only 25% of our private capital. We estimated that we would utilize all of that borrowing in the near future because we are seeing many good investment opportunities at the present time.

We were very disappointed to learn that the Investment Division decided to give us only $1 million of the $3 million we requested. ID officials have told us they were forced to cut our application because of the shortage of funds they have to commit during this fiscal year.

The most recent issue of NASBIC News reported that your Committee will hold a hearing in mid-April to consider legislation which would raise the leverage ceiling for the current year. We hope very much that you will support that proposal; without additional leverage, Regional Financial Enterprises will be forced to turn away well-qualified applicants for venture capital.

We are certain our SBIC is not the only one affected. We work with a number of other companies and know they, too, are being forced to curtail their activities due to the leverage shortage at SBA.

If you have any questions, please feel free to have someone in your office contact either George or me at any time. We thank you for your past support and for your help now.

Senator **Weicker**. In essence, what they are saying is they applied for $3 million and only received $1 million. In effect, they were told that the application had been cut because of a shortage of funds they have to commit during the fiscal year.

Obviously when one receives a letter like this, one wonders. You say lean but adequate—obviously for this individual it was inadequate. As to whether that is the case across the board, I don't know, but I think it is something that should be looked into.

SBDC PROGRAM

Small business development centers are operating in 23 States, serving as a link between various sources of management assistance and small businesses. What is your assessment of the performance of the SBDC's currently operating?

Mr. **Sanders**. Well, it is spotty. We are trying to give you a picture.

The SBDC program, as you know, is certainly one of the growing parts of the agency. It was designed to take over many of the management assistance functions. It has, of course, a lot of appeal in the matching fund characteristics under the program. Everybody seems to want to have one. We have a lot in the hopper now that everyone wants to get into the program.

Again, I think the ones that have been most effective are the ones that have some kind of dynamic leadership. That is always the case in this kind of activity. So it is a growing program. I think it is becoming more effective. I think we are finding more ways to use SBDC's. They are here to stay. We simply want to keep the program going so that we have effective and efficient operation.

For instance, we have had a few of them that come to us with proposals where they have too many layers of management. It is obvious they are trying to support some university overhead. That is their first consideration. This is always the thing you have to balance out. Is it more effective for the university or is it more effective for the small business area? So it will be a growing program, Mr. Chairman. I am convinced we have probably three or four or five more SBDC's in the next 12 months, and we are right on the kind of thin margin in our request for $14 million. I think that is what it is. But the minute I see that that isn't going to be an adequate amount, I think we will send up a signal. It is possible we would need $2 or $3 million right at this point.

VETERANS PROGRAM

Senator **Weicker**. In the continuing resolution this committee earmarked $3 million in the salaries and expense account for the Office of Veterans' Affairs at SBA. These additional funds were provided so that SBA would meet its statutory requirement of giving special consideration to veterans, especially Vietnam era and disabled.

Can you tell me what is being done with these additional resources to provide veterans with management and technical assistance?

I might add that my staff informs me that only half of the funds will be used, and that there is a very limited staff in the Veterans' Office that is generally perceived as ineffective.

Mr. **Sanders**. That is not quite my answer. [Laughter.] I would certainly agree that we will only spend less than half that amount by October 1. We tried very hard to spend it. But to be truly effective in the management assistance program, we have asked all the veterans organizations to give us their cooperation. They have come to us with the suggestion that this is something that is needed and their organizations need it and we have said fine, we will provide it. You tell us where and you get up the crowd to come and we will be there and deliver.

We have set up certain cities where we put on these seminars. I think that we have some testimony that they have been pretty largely successful in what they have tried to do, knowing that we are not simply putting them into business the next day.

There is one organization that has been extremely critical of what we are doing, and yet I feel that the main reason they have been critical is they want more money for their own organization. I don't think that is any measure of effectiveness. As a matter of fact, I have some question as to how many people this organization represents.

But by and large I think the other organizations have been pleased with what they see as the first demonstration that the SBA is really doing anything at all. We continue to try to improve on the programs. We are a little disappointed in the turnouts in the various cities where we put these on.

So I guess the best thing to say is we are trying to meet the requirements of the veterans population, with particular emphasis on Vietnam veterans because they are now of an age where they can be most effective in entering small business. So it is a mixed situation. But there is no way we can effectively spend at a faster rate than this, unless we had all of these things simultaneously in different cities and more staff. I don't know that is an effective or efficient use of funds.

GAO REPORT ON GUARANTEED LENDING

Senator **Weicker**. Yesterday the General Accounting Office issued a report on the SBA 7(a) guaranteed lending program. GAO found the guaranteed lending program to be of tremendous benefit to small businesses. Of the lending institutions providing guaranteed loans surveyed by GAO, 82 percent responded that they would not have made the loans without the guarantee or would have made loans on more stringent terms. These lending institutions also stressed that these guaranteed loans create jobs. In light of these findings, don't you believe that this program should be emphasized and funding should be increased rather than cut back? Do you believe SBA has requested sufficient funds to meet the demands of the 7(a) guaranteed lending program?

Mr. **Sanders**. Well, as I said earlier, Mr. Chairman, I am rather pleased with that report. I have been asking each banking group, when I go into a local community, if what we are doing is really effective and important in their communities. I get somewhat the same response that GAO has reflected there, that yes, in the area of long-term lending we make a real penetration and we are effective in building small business. So yes, I would think that we could probably show the expanded level of guaranteed lending if in exchange for that we can get some kind of support for eliminating direct lending, with the exception of handicapped loans.

DEBT COLLECTION EFFORT

Senator **Weicker**. Your budget estimate states that SBA expects to collect an additional $55 million and $110 million in loan repayments, over and above the normal amortization, for fiscal years 1983 and 1984, respectively. How did the agency arrive at these figures, and do these figures represent a realistic assessment of additional moneys SBA can collect through stepped-up collection efforts?

Mr. SANDERS. Harry, those are your figures, aren't they?

Mr. CARVER. The extra $55 million shown in 1983 were added on as part of the administration's accelerated debt collection effort. Through the first 6 months of the year, we have actively collected about the same level, almost to the dollar, as fiscal 1982, which then would indicate we may be short of those estimates by the end of the fiscal year.

Senator WEICKER. How short?

Mr. CARVER. Probably about the amount of the debt collection add-on of $55 million.

Senator WEICKER. Well, we better get together on that also.

Mr. SANDERS. Yes.

SUBMITTED QUESTIONS

Senator WEICKER. I have further questions for response to the record. Otherwise, I don't think I need to take up any more of your time.

Is there anything further you would like to say?

Mr. SANDERS. Not at this time. I think it is a good idea, Mr. Chairman, as you suggest, that we get back together with our staffs and go over some of these numbers. We will see what we can negotiate in line with what we discussed this morning.

Senator WEICKER. OK. This seems short. That is the advantage of being head of both the authorizing and the appropriations committees. I see enough of you guys. [Laughter.]

In any event, I am certainly satisfied, even though there might be a few policy differences on how budgets are arrived at with OMB. Nevertheless, I very much appreciate your presentation before the committee. Thank you.

Mr. SANDERS. Thank you, Mr. Chairman.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR LAXALT

Questions on SBA's
Proposed Fiscal Year 1984 Budget

Question #1: Page S&E-1 of the budget overview states that as part of the general effort to limit growth of Federal expenditures and curtail the dependence on the Federal Government as a supplier of credit, SBA is not requesting funds for direct loans, except for sufficient resources for equity financing for Minority Enterprise Small Business Investment Company loans. S&E-1 goes on to state that "SBA will continue to focus on providing Federal credit assistance to those borrowers that are not serviced by the private market and lack access to other credit sources. Therefore, special emphasis will be placed on credit assistance to the handicapped, minority and first time borrower." What special emphasis is contemplated? Didn't the direct loan program primarily benefit the aforementioned categories of business enterpreneurs and, if so, what if anything is planned as a replacement?

Answer #1: SBA's direct loan program did emphasize assistance to those borrowers mentioned above, however, the extent of assistance was minimal in comparison to the size of the small business constituency. For this reason, and the feeling that an improved economy will provide more private credit resources to the small businessman, the Agency is requesting the elimination of the direct program. Those borrowers that will still encounter difficulties in securing credit in the private sector will be able to obtain credit through SBA's available resources in the MESBIC and guaranty programs.

Question #2: SBA's fiscal year 1983 budget submission stated that a debt collection plan had been established. A June 1982, Inspector General report concluded that debt collection was the most neglected area of SBA planning and execution. Your current budget submission states that a major highlight of the submission is the continued effort to further reinforce and accentuate the Debt Collection Plan objectives set forth in OMB Circular 81-17 (S&E-2). Would you outline the elements of this plan; the amount of recoveries to date; the costs to implement; and estimated recoveries and costs for fiscal years 1983 and 1984. Specifically address what staff resources are devoted to the plan and the impact on other SBA program activities to the extent possible.

Answer #2: As you are probably aware, SBA has had for over twenty-five years, a widespread field office organization. The ability to make loans has always carried with it the responsibility to service, collect, and liquidate when necessary. Largely unnoticed over the years, the approximately 850 people in seventy-five offices dealing with a portfolio of nearly 500,000 loans, became a center of attention and concern early in 1981. The Debt Collection Plan developed by SBA in response to OMB Circular 81-17 essentially addresses these management objectives: (1) the reallocation of existing personnel resources into collection work wherever possible (2) the improvement of (a) the existing Univac computer in Washington which contains accurate loan accounting information on all loans dating back to 1953 (b) the Burroughs computerized billing system in Denver which bills approximately 325,000 direct loan borrowers monthly (and which deposits about 12,500 loan payments daily to the Federal Reserve Branch Bank in Denver); and (c) the utilization of the electronics communications devices (CRTs, highspeed printers) installed in every office, and (3) to improve upon our training programs.

There is no doubt that the plan is working. Not counting the interest portion of collections, the principal dollars returned to the Agency's revolving funds in FY 1982 was $837 million compared to the $740 million for FY 1981. As a result of improved lending criteria which is essential to correcting the problems in the computer and the training aspects, we are approximately even thus far into FY 1983 with FY 1982.

With respect to staff resources, we recognize that electronics and computers are the ultimate solution. The costs of computers and much of the other electronic equipment are behind us. Added costs to lease telephone lines, to use undersea cables from Puerto Rico and Hawaii, or to utilize a satellite for Alaska's office will, we believe, be offset by sharp reductions in mailing costs. Additionally, the ability to furnish timely and accurate lists of delinquent loan information or loan accounting information on a given case in seconds or minutes will undoubtedly improve the productivity of the office staff dealing with their individual portion of the portfolio.

The Agency was authorized to hire approximately 275 disaster temporary employees and 150 regular temporary employees to assist in resolving some of the delinquency problems related to the portfolio. The dramatic increases in disaster loan making activity between 1976 and 1980, which the current portfolio still contains approximately 200,000 home related loans and 71,000 farm loans, was never matched with personnel increases to handle these loans. The problems and delinquencies within these classes of loans are rarely solved by electronics, computers or outside collection agencies. The efforts we are making this year together with similar efforts in the Farmers' Home Administration to reasonably work with farmers who were unable to make their annual loan payments this winter, is an example of the use to which we have put these temporary people.

Question #3: We understand that OMB established a debt collection target for fiscal year 1982 that is $100 million over the fiscal year 1981 rate. We further understand that you divided this goal into $65 million for disaster loans and $35 million for business loans. How did you do against these goals?

Answer #3: SBA estimated loan repayments for FY 1982 were at $885.7 million compared to FY 1981 actual of $740.5 million. This figure included the scheduled repayments and an estimate for the Agency's increased debt collection efforts. To this amount, OMB added the Agency's debt collection target of $100 million. Actual repayments for FY 1982 were $836.9 million or $48.8 million short of our estimate and $148.8 short of the budgeted amount. By fund the comparison of our estimate to actual is as follows:

($ in millions)

	Business	Disaster	Total
FY 1982 Estimate	$262.7	$623.0	$885.7
Actual	233.4	603.5	836.9
Shortfall	(29.3)	(19.5)	(48.8)
OMB Target	65.0	35.0	100.0
Adjusted Shortfall	(94.3)	(54.5)	(148.8)

Question #4: For fiscal year 1983, OMB's goal is $120 million over the fiscal year 1982 rate. What actions do you plan to take to meet this goal?

Answer #4: Again in FY 1983, OMB added an Agency debt collection target to our estimated collections, which had already taken into account increased debt collection efforts. We have a debt collection plan in place in the Agency and are diligently exercising its components. We have notified OMB of our reservations concerning such an optimistic repayment target, and have not in anyway decreased the emphasis on debt collection. We feel that our plan is feasible and will result in the optimum amount of collections for the Agency. This amount was reflected in our estimate of FY 1983 repayments, exclusive of the $120 million.

Question #5: Page S&E-3 states that improvement of data management resources is a top Agency priority. What specific actions are planned or underway in fiscal years 1983 and 1984 to improve the accuracy and usefulness of programmatic data critical to Agency management?

Answer #5: The Office of Computer Sciences has taken steps in fiscal year 1983 or planned steps for fiscal year 1984 to improve the accuracy and usefulness of programmatic data as follows:

The Operations Branch has instituted daily updates of systems of paramount importance to the Small Business Administration (Loan Accounting and Loan Collection) to ensure that current information is furnished to program offices and clients.

The Operations Branch is also:

(1) Emphasizing accuracy by instituting quality control procedures in the computer-generated output furnished to program offices, with heavy concentration of effort in eliminating, or severely reducing, human errors; and

(2) Instituting monthly meetings between Operations Branch and Program Offices with a view toward improving accuracy and timeliness of computer systems.

In fiscal year 1984, the present programs to improve accuracy and usefulness of programmatic data will be continued. An upgrade of the central processing unit may be required in order to take advantage of data base technology and the redesign (software engineering) of major SBA systems.

In the Network Systems Branch, a milestone in the expansion of services of the SBA Data Communications System (SBADCS) has been completed. The new Offices serviced are Anchorage, Alaska; Honolulu, Hawaii; Hato Rey, Puerto Rico; Buffalo, Elmira, and Melville, New York; El Paso and Grand Prairie, Texas; and Springfield, Missouri. In addition, the disaster area offices in Sacramento, California; Atlanta, Georgia; and the Office of Business Loans, Central Office, are being serviced. The SBA District and Branch offices are now serviced by this Nationwide Data Communications Systems network.

The SBADCS network is comprised of 32,000 miles of leased AT&T Long Lines. Hato Rey and Honolulu are serviced by underwater cables leased from International Telephone and Telegraph. Anchorage is serviced by an ALASCOM/IT&T satellite link from Anchorage to Vernon Valley, New York, then AT&T Long Lines to the New York

Regional Office and finally to Washington, D.C. All of these lines are terminated to the PAL Technical Control Center located in the SBA Washington Data Center.

Further expansion and enhancements of the SBADCS network are planned as funds become available.

In the Information Systems Branch, the following is in process:

(1) Development of a new series of fourteen Portfolio Management loan servicing displays. These displays will eliminate technical jargon and codified data. They utilize simple descriptive nomenclature and express data in program terminology. They form the cornerstone of efforts to develop a paperless loan servicing system.

(2) Distribution of loan servicing information regarding delinquent accounts utilizing the telecommunications network of the Agency was initiated. This allows the most current delinquency information to be available immediately (in report format) to field offices as far away as Alaska, Hawaii, etc.

(3) Loan origination and servicing source data input utilizing the telecommunications network was and is expanding.

(4) New data, i.e., transaction cash receipt history, will be available via the telecommunications network to loan servicing functions in the third quarter of fiscal year 1983. This is the first time data regarding cash receipts, repayment trends, etc., has been available.

(5) The Agency's financial data files are being converted to a data base environment, thus affording all of the advantages of this state-of-the-art technology.

(6) The Agency's Surety Bond Guarantee system is being redesigned. It is scheduled for completion in fiscal year 1984. When implemented, it will utilize terminal data entry and retrieval to speed up the flow of information and to improve the accuracy by editing the data at the point of entry.

Question #6: The primary purpose of SBA's small business investment company program is to provide a source of needed equity capital and long-term loans to new or expanding small businesses. According to industry reports the availability of private venture capital has increased from $2.5 billion in 1977 to over $7.5 billion in 1982. Given this expansion in private capital is continued, is Federal participation in this program warranted to the extent indicated in your budget submission?

Answer #6: The significant increase since the mid-70's in the participation of the private sector in supplying venture capital to small business is the result of several important developments. First, and probably most important, was the capital gains tax reduction which was enacted in 1978. This reduction resulted in the unlocking of a large amount of capital and unrealized gains, and, due to the increase in the potential net after-tax rate of return that such a reduction makes possible, that capital and realized gain flowed back into investments offering the potential for capital gains returns.

The second factor was the regulatory change which permits certain institutional investors to invest funds to a limited degree in higher risk, venture situations. We are seeing these institutions commit significant amounts of funds to private venture capital pools.

Federal participation in supplying venture capital to small business concerns through the SBIC program was, at the time of the enactment of the Small Business Investment Act of 1958, an important effort to induce private sector involvement in a structured way.

This private sector activity, supported and partially funded by the government, has enabled the development of experienced venture capital managers. These seasoned managers now form a nationwide network, or a distribution channel, for placing into the hands of entrepreneurs the substantial supply of risk capital which is now available.

These venture capital managers have gained the confidence of individual and institutional risk takers, and thus more and more capital is flowing into the market. This combination of human and financial capital is a resource which is crucial for the financing of the development of the new technologies which are the source of so many new job opportunities, and the foundation of the Nation's economic strength for the future.

The present annual Federal commitment to this activity through the SBIC program is very modest in relation to the non-government activity taking place. Present budgeted amounts are only at a program maintenance level and will permit only limited expansion, if any at all.

Failure to maintain present levels could cause severe liquidity problems, require the premature liquidation of portfolios in many cases, and stop any new investment activity.

The SBIC program's underlying legislative authority allows a broad range of activity all the way from high technology equity financing at one end of the spectrum, to low technology taxi-cab debt financing on the other end. What this program needs more than anything else, is a fresh mandate from Congress which more narrowly focuses on the small business financing needs of the present marketplace. Federal participation, under a clearer and more narrowly defined mandate, would be much more productive and efficient.

Question #7: Page S&E-23 refers to SBA's responsibilities, under section 211 of Public Law 95-507, to assist small businesses in obtaining subcontracts on Federal contract awards. Aside from the responsibilities cited in the budget, P.L. 95-507 also amended section 7(j)(3) of the Small Business Act by emphasizing SBA's responsibility to encourage large businesses to place subcontracts with small and small minority firms. In a GAO report (CED-81-151) issued on 9/18/81, GAO pointed out areas where SBA could improve its implementation of this provision and recommended that:

- -- SBA develop a specific plan for promoting contracts and subcontracts for small and small minority businesses from the private sector.
- -- SBA, pursuant to the Small Business Act and Executive Order 12190, study and propose the incentives and/or assistance the private sector needs to help train, develop, and upgrade small and small minority businesses.
- -- SBA give priority to promoting subcontracting with small and small minority businesses that are not heavily engaged in supplying goods and services to the Federal Government and, therefore, not already required by law to use small businesses as subcontractors.

What actions has SBA taken to implement the above GAO recommendations?

Answer #7: During the calendar year of 1983, the Presidential Advisory Committee has established a concentrated and determined effort to increase procurement opportunities to the small and small minority business entrepreneur by way of the large major corporations. Two subcommittees chosen by the PAC Chairman have been established. One subcommittee is to concentrate on contacting the Chief Executive Officers of 25 major U.S. corporations to further their procurement opportunities with the small and small minority entrepreneur. The other subcommittee will work with private sector business organizations and associations to seek their assistance in broadening the procurement opportunities for the small and small minority businesses.

A subcommittee was established to study and submit proposals for incentives and/or assistance to the private sector to meet the requirement of E.O. 12190. A 14-page report naming 11 incentives and/or assistance approaches to accomplish this purpose has been submitted to the President and the Congress in the Committee's year-end report.

The Committee and subcommittees are making a concentrated effort to broaden subcontracting among those firms that do not engage heavily in Federal procurement awards. This, as you know would create prime contracting opportunities for the small and small minority businesses.

Question #8: Regarding the Preferred Lenders Program (S&E-42) to what extent will required monitoring and training efforts cancel out or, for that matter, outweigh any SBA personnel savings resulting from shifting more authority to private lending institutions?

Answer #8: SBA feels that the Preferred Lenders program cannot be run on a responsible basis without a thorough and continuous monitoring system. It is estimated by GAO that SBA spends about 4 hours processing a guaranteed loan from a Certified Lender. Thus, for a hypothetical PLP participant with 100 guaranteed loans, SBA would have spent 400 work-hours processing applications. It is estimated that three SBA employees will spend one day per quarter evaluating the Lender. On an annual basis, the total time spent evaluating that Lender would be 96 work-hours. Assuming annual loan production of 100 loans, the time savings would be 304 work-hours. Additional savings, which could be substantial, will result from the PLP participant lenders handling much more of the loan servicing/collection and liquidation activities.

The PLP's pilot in New York City and New Jersey (with 6 lenders) began on March 1, 1983, and its first quarterly evaluation report will be prepared in June. One of the items to be evaluated is resource implications to SBA, in terms of saving us time. It is too early, as of now, to specify what these resource implications are, or will be, once the "start up" phase of PLP is completed.

The training of PLP lenders principally involved a discussion of the logistical changes necessary to make the program operate. This was accomplished in a one-day meeting prior to program implementation. SBA does not feel that retraining PLP lenders will be necessary. Thus, the training effort will have a negligible effect on personnel savings.

Question #9: Both the Certified Lenders program and the Preferred Lenders Program require less involvement by SBA personnel in the lending process. Could you quantify for us, how much personnel savings these programs currently or ultimately are expected to achieve?

Answer #9: It is impossible to precisely estimate the extent of the personnel savings as a result of the CLP and PLP. The savings are a function of loan demand, personnel levels and factors over which SBA does not have control, such as the completeness and adequacy of the CLP lenders' loan guaranty submissions to us. When the CLP was implemented, the average processing time was approximately 15 days. It is currently about 12 days. This decrease was accomplished in spite of numerous transfers of loan processing personnel to loan servicing and loan collection activities. The decline in loan demand does not fully account for the 20% improvement in overall processing time, due to the personnel shift described above. Therefore, some of the credit must go to the Certified Lenders Program, which now accounts for approximately 20% of the Agency's guaranty lending activities and provides average processing times of only 3-working days.

Question #10: Page S&E-42 states that the Certified Development Company Program was enacted on July 2, 1980, and is expected to play an integral part in the Small Business Economic Revitalization (SBR) Program. The budget goes on to state that the SBR program is a cooperative effort between HUD and SBA, which seeks to create 300,000 new private sector jobs and new private investment of $5 billion in healthy businesses.

How is SBA monitoring results of the Certified Development Company Program--e.g. number of jobs being created and extent private capital is being leveraged? How were past program results considered in formulating the level of funding requested for the Certified Development Company Program?

Answer #10: SBA approves each loan under the development company program. At that time, an estimate of jobs to be created is provided and the various funding elements of a project are determined. Typically, 50% of each project is funded by a private sector first mortgage; the SBA debenture then funds 40% on a second mortgage plan and the remaining 10% is provided by the development company or the small business concern in a subordinate manner.

For two years after the project is completed, the CDC in its annual report states the jobs actually created per small business concern assisted.

The CDC program is a new program which only began in 1980. In FY 1981 and FY 1982, the program was just beginning. This fact is reflected in the program activity, expressed in millions, for the development company programs in those years as follows:

	502 Program	503 Program	Total
FY 1981	$32.0	$34.6	$66.6
FY 1982	18.2	81.3	99.5
FY 1983 (6 mos.)	9.9	83.7	93.6

The funding request was based on FY 1981 and 1982 experience and normal growth without considering the impact of participating on a subordinate basis with tax exempt financing.

Question #11: Page S&E-53 states that funding of the 7(j) program will increase by $5 million to $15 million. It also states that the major portion of the 7(j) funds will be used to assist 8(a) program firms and to prepare firms for competitive existence after leaving the program. In a September 29, 1981 report (CED-81-149) GAO pointed out several areas where SBA would improve its management of the 7(j) program. For instance with regards to assisting 8(a) firms GAO recommended that SBA:

> Define and rank (1) 7(j)(10) program goals and objectives consistent with the program's legislative mandate, (2) the number and needs of program participants, and (3) the availability of 7(j)(10) resources.
>
> Develop a written plan describing how program resources will be used. This plan should be compatible with the agency's defined program goals and objectives.
>
> Revise the 7(j)(10) standard operating procedures to clarify
>
> --the criteria and process for the allocation of 7(j)(10) program resources,
>
> --the criteria for 7(j)(10) project selection, and
>
> --the responsibilities of individuals charged with contract monitoring.

What actions have been taken to implement GAO's recommendations?

Answer #11: Actions to define and rank 7(j)(10) program goals and objectives and the number and needs of program participants are covered by the 7(j) Committee's recommendations. The Agency's objective-setting and budgeting processes account for the availability of 7(j)(10) resources.

The development of a written plan consists of the agencywide Regional Operating Plans which are now in place and include 7(j) use. Regional Administrators will adapt to their changing 7(j) needs through their responses to the annual advance acquisition letter from the AA/MSB&COD.

Revised Standard Operating Procedures will cover the criteria and process for the allocation of 7(j)(10) resources. Through competitive cooperative agreements and two evaluation committees the determination of

7(j)(10) project selections will be made. The responsibility of individuals charged with contract monitoring is covered by specific letters of instruction to District offices with 7(j)(10) awards.

Question #12: Page S&E-96 of your budget submission requests $2.5 million to continue work in establishing a comprehensive statistical small business data base by your Office of Advocacy. What efforts have been made to evaluate the need for and usefulness of the data base? When was work initiated to develop this base, what is the present status of the data base, and how will it be kept current?

Answer #12: The Office of Advocacy is making continual efforts to evaluate the need for and the usefulness of the Small Business Economic Data Base. One evaluation is made on a market basis. The number of requests being received by the Office of Advocacy from the Congress, Federal agencies, universities, the media, and the general public is increasing at an exponential rate. Most of the requests for information on small business received by the Office of Advocacy could not be handled without the data base. A second major evaluation tool is the extent to which the Small Business Data Base is used within the Office of Advocacy. The data base is a major source of information for the *State of Small Business* report prepared by the Office of Advocacy for transmission to the President and to the Congress. In addition, the Office of Advocacy accesses the data base on a routine basis in order to implement the Congressional mandate to administer the Regulatory Flexibility Act. Many Federal regulatory agencies routinely request information from the data base as part of their job in carrying out analyses of regulatory impact on small entities. Finally, the Chief Counsel for Advocacy has recently established a data base evaluation panel consisting of economists and computer specialists from major universities around the country. These experts were asked to independently evaluate the data base to suggest possibilities for appropriate changes in the near term future. The report prepared by this data base evaluation group has recently been received by the Chief Counsel and will shortly be transmitted to the Administration and the Congress.

Work on the small business data base was initiated during Fiscal Year 1979, and work has continued since that date. The work has followed a work plan developed in 1979 and modified several times since that date. However, there has been no major change in the general direction of the work to this point. The present status of the data base is routinely outlined in the *State of Small Business* report submitted to the Congress by the President. The most recent such report was forwarded to the Congress in March, 1983. The simplest way to describe the current status of the data base is to say that part of the data base is fully developed in the sense that ongoing reports from that portion of the data base are routinely being prepared. Other portions of the data base are still undergoing developmental work, prior to deciding on routine outputs to be regularly released. The data base will be kept current through continued purchase of current data from private sources. The Office of Advocacy is also continuing to work with the Internal Revenue Service, the Bureau of the Census, the Bureau of Labor Statistics, and other statistical agencies within the Government that may be able to provide data more effectively or at lesser expense.

Question #13: Through SBA's Surety Bond Guarantee Revolving Fund the agency guarantees 90 percent of the losses sustained by a surety company as a result of issuance of a bid, payment, and/or performance bond to a small business concern. Page SBGRF-3 of the budget submission shows the following budget levels.

(in thousands of dollars)

	1982 Actual	1983 Estimate	1984 Estimate
SBA contingent liability for bond guarantees....	$763,788	$1,080,000	$1,080,000

It would seem that the construction industry lull in recent years has suppressed demand for SBA's surety bond guarantees. Considering this, what assumptions have you used at arriving at the same guarantee level for fiscal years 1983 and 1984? More specifically, in your judgement what amount of guarantee demand would you anticipate for fiscal year 1984 under the following economic assumptions; no economic change, gradually expanding economy, and rapidly expanding economy?

Answer #13: The assumptions used reflected a belief that the Administration's effort to increase the job market and improve employment, as well as increased surety participation, and proposed new regulations would have a direct impact on future program levels.

The 1984 FY demand for Surety Bond Guarantee's is thought to be a function of the nation's economy at that time, with $1.08 billion in guarantee level a reasonable assumption, taking into consideration those mentioned above.

Question #14: SBA's Pollution Control Equipment Contract Guarantee Revolving Fund was established by Public Law 94-305, approved June 4, 1976, to alleviate the adverse impacts of pollution regulations on small businesses. Under the law SBA guarantees loans or contract repayments used to plan, design or install pollution facilities. Page PCECGRF-3 of the budget submission shows the following budget history with respect to limitations on commitments.

(in thousands of dollars)

	1982 Actual	1983 Estimate	1984 Estimate
Loans by private lenders	$250,000	$250,000	$150,000
Actual loans by private lenders	50,470	150,000	150,000
Unused balance of limitations expiring	199,530	100,000	--

Page PCECGRF-5 of the budget submission also shows the programs to be self-sustaining.

(in thousands of dollars)

	1982 Actual	1983 Estimate	1984 Estimate
Revenue	$6,061	$13,675	$14,575
Expense	-1,466	-4,600	-4,600
Net gain for year	4,595	9,075	9,975

In view of the self-sustaining nature of the program and the proposed dramatic cut in fiscal year 1984 appropriations, on what basis has SBA ascertained the adequacy of the proposed $150 million appropriation to meet fiscal year 1984 demand? What factors have contributed to the commitments under the program being significantly below appropriated levels in fiscal year 1982 and 1983?

Answer #14: The $150 million program level for FY 1984 is considered more than sufficient to meet the estimated demand primarily because of the program use during fiscal years 1982 and 1983, $50.5 million and $7.6 through May 31, 1983 respectively.

These low commitment levels are principally due to the fact that on January 1, 1982 tax-exempt financing was eliminated from eligibility under the program. The pending applications in house at that point were either cancelled, withdrawn or abandoned by action of each applicant small concern. All applicants anticipated an early reinstatement of the tax-exempt financing but it did not materialize as expected.

QUESTIONS SUBMITTED BY SENATOR WEICKER

GUARANTEED LOANS

Question #1: GAO suggests that SBA's use of the prime rate as its benchmark for calculating the maximum rate allowed on fixed and variable loans should be discontinued for fixed rate loans only. Instead, GAO recommends that fixed rate loans be priced consistently with long-term debt such as Treasury notes or long-term bonds. The prime rate as a benchmark for variable rate loans is acceptable, according to GAO, because it is a short-term rate, and these types of loans have an interest rate risk similar to short-term debts because they can be adjusted quarterly. How do you respond to GAO's recommendation?

Answer #1: Based on recent experience with variable rate loans, the Small Business Administration is desirous of taking whatever steps might be necessary to encourage participating lenders to offer long-term, fixed rate loans. For the small business borrower, such financing offers predictable debt service requirements, in addition to a longer maturity not likely available without the Agency's guarantee. To demonstrate SBA's willingness to act to achieve long-term, fixed rate financing, a pilot project in the State of Minnesota was announced in the Federal Register of August 11, 1982. SBA agreed to waive normal restrictions that involve the interest rate on loans and its relationships to the prime rate, as part of a way to achieve long-term, fixed rate financing.

Interest rate deregulation through the elimination of maximum rates is also a major recommendation of the Small Business Committee on Capital Access's October 1982 report titled, "Increasing Capital Access for Small Business." Can SBA achieve long-term, fixed rate financing through eliminating maximum rates (deregulation)? Is SBA begging the benchmark (base rate) question in suggesting deregulation as an alternative to prime rate based fixed rate, long-term financing?

In a recent reply to the Subcommittee on Commerce, Consumer and Monetary Affairs of the House Committee on Government Operations, on the issue that, inter alia, SBA must make substantial changes in its prime interest rate policies, SBA indicated that interest rates are not the sole determinant of whether a loan is beneficial to a borrower. The installment repayment structure is also very significant. While the prime rate is not a particularly good indicator of long and intermediate term money, it is the basis upon which most lenders determine interest rates. Were SBA to set maximum rates for fixed rate loans based on comparable Treasury securities of similar terms, the net effect could be to limit lenders' participation in SBA's program. Insistence on a particular base rate at the expense of credit availability would not promote long-term credit for small business.

A problem which SBA has in selecting a base rate for fixed term loans is that at certain times short-term rates exceed longer term rates, but at other times, such as at present, the converse applies. SBA's Capital Access Committee was unable to track Agency guaranteed paper to a standard base. It is important that SBA allow the paper to price itself. A way for SBA to address the non-applicability of a base rate as a way of tracking interest rates might be to offer a choice of the prime rate or a Treasury Issues rate, whichever is lesser. Determination of a fixed spread to accommodate optional bases would be most complex and would seemingly be geared toward a maximum SBA loan rate. A prominent investment banker recently said that for paper to have marketplace acceptance, it must have a standard base and a fixed spread. In its variable rate loans, SBA calculates an optional peg rate as an alternative to low New York prime. Confusion results when choice exists. SBA's interest rate policies must be formulated in such a way that capital is attracted, lenders want to participate and small businesses want to borrow. SBA has not succeeded if available credit is rationed elsewhere because the Agency's interest rates are below market.

Homogeneity of SBA loans would be an important ingredient of any SBA effort at secondary market loan pooling for capital formation. Multiple base rates for SBA loans would seemingly work against any movement toward more homogeneous paper than SBA has in its portfolio now. Fixed rate loans would be encouraged for pooling.

It is GAO's conclusion (p. 12, para. 2) that SBA borrowers' interest rates are comparable to other small business loans, despite a longer maturity and higher risk. GAO added (p. 27) that for the last three years, SBA interest rates are generally in the range of effective averages for all commercial and industrial organizations of comparable size.

In sum, SBA would prefer to take this matter under advisement, while the issue of deregulating the maximum loan interest rate is addressed.

Question #2: GAO also recommends that SBA provide Congress with demand data on 7(a) loans to facilitate budget decisions by Congressional Committees. Will you begin to provide such data to the House and Senate Small Business Committees?

Answer #2: The only reliable demand information that SBA has is from the receipt of loan applications. Last fiscal year SBA developed a system to provide prompt information on a monthly basis on applications received, applications pending, and the disposition of those applications. The information is available dating from 10/1/82 forward, and will appear in the Agency Management Information Summary for the month of April 1983 and subsequent.

Question #3: GAO also found that reducing the SBA guarantee by 10 percent would not adversely affect the participation of the majority of the banks involved in the 7(a) Program. Reducing the guarantee percentage could free funds for additional loans. What do you think of the suggestion that SBA reduce the guarantee percentage?

Answer #3: GAO did not recommend reduction in guaranty level from 90% to 80%, but found that lenders polled would generally continue to participate at the 80% but not below 80%. They further recognized that even a reduction to 80% could have some adverse effect on marginal borrowers.

We also believe that such a reduction would affect the small rural lenders and the subsection (b) non-bank lenders who can only make loans in participation with the SBA.

We believe the Agency should be allowed wider lattitude in setting the guaranty percentage according to the circumstances of the individual case. As you know, P.L. 97-35 has severely limited our descretion in this matter.

We do not dispute the GAO theory regarding the concept that a 10% reduction in the guaranty would free up lending authority for additional loans.

Question #4: GAO found that the potential of the secondary market, where lenders sell the guaranteed portion of SBA loans, is enormous. However, many lenders do not pass along the lower interest rates to small business borrowers, and are permitted to do so because SBA has no limitation on the amount of loan servicing fees. Has SBA considered limiting the loan servicing fee so small businesses can take advantage of the lower interest rates through the secondary market?

Answer #4: The issue of limiting the lender's servicing fee in secondary market agreements was addressed in the October 1982 report of the Small Business Committee on Capital Access titled, "Increasing Capital Access for Small Business." The recommendation of that committee was that, in order to lower the costs incurred by those purchasing loans in the secondary market and to constrain the rates charged borrowers, a ceiling be imposed on servicing fees received by financial institutions which originate loans and rapidly resell them. The lender's servicing fee is the differential between the interest rate paid by the borrower and the yield to maturity received by the investor which is the rate at which the loan is sold in the secondary market. The fee is expressed as an annual percentage of the unpaid principal amount of the investor's interest for the period of actual services performed by the lender. The Capital Access Committee suggested that when there is a secondary market sale within six months of full loan disbursement we limit the lender's servicing fee to 300 basis points (3 percent) or less. All fifteen Committee members agreed to this limit, which could be established below the 300 basis points or less standard. If the loan originator held the guaranteed loan in its portfolio for six months or longer, the Committee recommended that no restriction be placed on the servicing fee the lender could obtain. The rationale for this position is that lenders holding a loan for six months or longer are subject to market fluctuations and market risks. Exposure risk should therefore entitle these lenders to an unrestricted lender's servicing fee.

SBA runs the risk, in proposing to limit the lender's servicing fee, of that phenomenon encountered in establishing a maximum loan interest rate that leads to interpretation of this rate as the SBA's recommended rate.

A restricted lender's servicing fee should accompany any pilot/program involving elimination of the maximum interest rate. In endorsing this recommendation, SBA Administrator James C. Sanders directed that it be tried in tandem with the elimination of the maximum interest rate.

Proposed language in draft for Section 120.3(b)(2)(iii)(c), Title 13, Code of Federal Regulations, restricting the lender's servicing fee reads, "If the guaranteed portion of a loan made pursuant to this subparagraph is transferred as provided in Section 120.5(a)(3) of this Part to a third party within six months following full disbursement, such transfer shall be at a price which will not result in a differential greater than three percentage points (three hundred basis points) between the interest rate paid by the borrower and the yield to maturity received by the transferee."

SBA will soon publish a notice in the Federal Register for comment on this issue.

MINORITY BUSINESS ASSISTANCE

Question #5: At the Senate Small Business Committee's recent hearing on the 8(a) program, you stated that you intend to expedite the 8(a) certification process and you promised to certify 500 new firms by April 1984. What steps have been taken so far to expedite this certification process?

Answer #5: We are currently in the process of revising our processing procedures which will expedite the flow of applications from the field. We also met with our ten Regional Administrators and Assistant Regional Administrators for Minority Small Business to brief them on the priority of this process and to initiate some of these procedures immediately, where possible.

These revisions include:

Eliminating District Review Committees, making selected procedures and forms optional, reducing clearance levels, increasing use of MBDA business development organizations and our own contractors to prepare better business plans, and establishing time frames at all levels of review once SBA has received a complete business plan package.

Question #6: Would you please provide to the Small Business Committee copies of directives to the field on that subject, as well as, a schedule of the field trips planned by the Associate Administrator of Minority Small Business and the Director of Minority Business Development Administration?

Answer #6: The revision to SOP 80 05 is in circulation for clearance. Subsequent to clearance the revision will be printed and distributed to our field offices. It is anticipated that this process will take approximately forty-five days. We shall furnish copies to the Small Business Committee at the same time that they are distributed to our field offices. The Associate Administrator does not have a schedule of field trips. Instead, we conduct quarterly Assistant Regional Administrator MSB&COD meetings and are planning a national conference of all MSB&COD personnel in the fall of 1983.

Question #7: Under Public Law 96-481, the Small Business Administration was required to negotiate program completion dates with all current participants in the 8(a) program and new program participants. To your credit, you successfully negotiated the dates within the time frame set out in the statute. Under the law, firms are eligible to request extensions on the date one year before their terms expire. How many firms are scheduled to "graduate" over the next year because of the fixed program participation terms? How many of those firms have requested extensions?

Answer #7: There are 279 firms whose fixed program participation terms expire by December 31, 1983. Of these approximately 254 have requested extensions.

Question #8: How many do you anticipate will receive extensions? How will your review and analysis of extension requests differ, if at all, from your negotiations with the firms on their original completion dates?

Answer #8: While there is no way to accurately gauge anticipated extensions until we have completed our review, we can say that of the firms we have reviewed to date, over 90% will be receiving extensions of at least six months.

Our analysis of the original FPPTs was set based on points accrued by the firms (number of contracts, years in the program, etc.). Extension criteria is generally based on progress of the firms since the FPPT was set and any overriding circumstances we should take into consideration.

Question #9: Are you considering any revisions in the criteria for negotiating fixed program terms?

Answer #9: We are not contemplating at this time any present changes in negotiating FPPTs, however, as we develop an experience factor we will modify the criteria, if necessary.

Question #10: The GAO has recently issued an opinion which has adverse implications for firms which leave the 8(a) program. The opinion suggests that once a firm leaves the 8(a) program, either through being too large or as a result of the fixed program terms, the firm is no longer eligible to receive modifications or extensions of contracts previously awarded. Has the General Counsel's Office concluded its analysis of that opinion? Does SBA plan to follow that opinion?

Answer #10: SBA's position as promulgated by the Administrator's mailgrams of 4/26/83 to all Secretary's and Agency Heads involved in procurement and followed up by more detailed letters on 4/26/83 outlining the legal ramifications, is that the GAO's statement regarding the options and other contract modifications included in their decision B-209992 of April 11, 1983 is a recommendation and, in our reading, not a directive, either generally or relative to the specific case in question.

Question #11: What is your assessment of that opinion?

Answer #11: In SBA's view, the recommendation is not grounded on generally accepted principles of contract law, and its implementation would not be in accord with the statutory purposes or announced policies of the 8(a) program. We therefore, have requested an early review from GAO.

Question #12: Would you please provide the Committee with statistics on the number of firms impacted if the GAO opinion holds, the dollar amount of contracts that these firms would lose, and an analysis of the impact these contract losses would have on the ability of these firms to remain viable?

Answer #12: Since April, 1982, 405 firms left the program due to failure to negotiate Fixed Program Participation Terms and/or other reasons. We have no reliable data as to how many of those firms, at the time of their separation, had active contracts that included future option provisions. Therefore, the impact of the GAO's opinion, if it holds, can not be assessed in aggregate. Each firm's position has to be assessed individually and, we believe, that the impact would range from potential business failure in some cases to none or ineligibility in others.

Also, approximately 19 firms ceased to be eligible for contract support since they have been determined "other than small". Such firms may be largely dependent on contract options beyond their 8(a) eligibility for making an orderly transition from the program. Obviously the GAO position on options could significantly harm these firms.

However, we feel that the greatest negative impact would be on the firms still in the program. GAO rendering the opinion miscontrued the purpose and reasons for inclusion of option provisions in the contracts. Options on contracts, including the 8(a) contracts, are included to meet the needs of the procuring agency; to improve or obtain the required efficiency, productivity or responsiveness; minimize procurement costs; etc. Contract option provisions are neither included nor exercized for the benefit of the companies but solely for the benefit of the government.

Therefore, if the GAO opinion stands it will have an effect of keeping the 8(a) firms from being considered for any long term government requirements. If the GAO's opinion is interpreted to include all contract modifications, then the procuring government activities in order to ensure ability to obtain required services will not be able to consider any 8(a) firm that may loose 8(a) eligibility during the contract performance period. As most Federal procurements generally cover the entire fiscal year needs, that means that an 8(a) firm in its last year of eligibility will have little or no chance of obtaining any government contract support.

Question #13: Under P. L. 96-481, a firm's fixed program term does not begin to run until it receives its first 8(a) contract. How many firms have not received any contracts since they negotiated their fixed program participation terms? Please submit for the record the number and industry classification of each of the firms not receiving contracts since receiving their fixed program participation terms.

Answer #13: A total of 150 firms have received no 8(a) contracts since receiving their fixed program participation terms. The industry classification, title and description for each of the firms is listed herein:

No. of Firms	Industry No.	Division
		A. Agriculture, Forestry and Fishing
4	0782	Lawn and Garden Services
		Total per Division A. - 4 Firms
		B. Mining
2	1211	Bituminous Coal and Lignite
		Total per Division B. - 2 Firms
		C. Construction
1	1500	General Contractor
3	1521	General Contractor-Single Family Houses
3	1522	General Contractors-Residential Buildings, Other Than Single-Family
3	1541	General Contractors-Industrial Buildings and Warehouses
23	1542	General Contractors-Non-residential Buildings, Other Than Industrial Buildings and Warehouses
5	1611	Highway and Street Construction, Except Elevated Highways
1	1623	Water, Sewer, Pipeline, Communication and Power Line Construction
2	1629	Heavy Construction, Not Elsewhere Classified
1	1711	Plumbing, Heating (Except Electric) and Air Conditioning

No. of Firms	Industry No.	Division
4	1721	Painting, Paper Hanging, and Decorating
5	1731	Electrical Work
1	1741	Masonry, Stone Setting, and Other Stonework
2	1752	Floor Laying and Other Floorwork, Not Elsewhere Classified
2	1761	Roofing and Sheet Metal Work
1	1771	Concrete Work
1	1791	Structure Steel Erection
2	1794	Excavating and Foundation Work
1	1799	Special Trade Contractors, Not Elsewhere Classified
		Total per Division C - 61 Firms
		D. Manufacturing
1	2011	Meat Packing Plants
1	2013	Sausages and Other Prepared Meat Products
1	2311	Men's, Youths' and Boys' Suits, Coats and Overcoats
1	2339	Women's, Misses' and Juniors' Outerwear, Not Elsewhere Classified
1	2392	Housefurnishings, Except Curtains and Draperies
1	2431	Millwork
1	2641	Paper Coating and Glazing
1	2653	Corrugated and Solid Fiber Boxes
1	2741	Miscellaneous Publishing
2	2841	Soap and Other Detergents, Except Speciality Cleaners
1	2851	Paints, Varnishes, Lacquers, Enamels and Allied Products
1	2951	Paving Mixtures and Blocks
1	3079	Miscellaneous Plastic Products
1	3399	Primary Metal Products, Not Elsewhere Classified
2	3443	Fabricated Platework (Boiler Shops)
1	3444	Sheet Metal Work
1	3451	Screw Machine Products
1	3465	Automotive Stampings

No. of Firms	Industry No.	Division
1	3499	Fabricated Metal Products, Not Elsewhere Classified
3	3599	Machinery, Except Electrical, Not Elsewhere Classified
1	3661	Telephone and Telephone Apparatus
2	3662	Radio and Television Transmitting, and Detection Equipment and Apparatus
1	3679	Electronics Components, Not Elsewhere Classified
1	3699	Electrical Machinery, Equipment, and Supplies Not Elsewhere Classified
1	3721	Aircraft
1	3724	Aircraft Engines and Engines Parts
1	3743	Railroad Equipment
1	3822	Automatic Controls for Regulatory Residential and Commercial Environments and Appliances
1	3832	Optical Instruments and Lenses
		Total per Division D - 34 Firms
		E. Transportation
1	4214	Local Trucking with Storage
1	4411	Deep Sea Foreign Transportation
1	4412	Ocean Transportation
1	4723	Arrangement of Transportation of Freight and Cargo
		Total per Division E - 4 Firms
		F. Wholesale Trade
1	5086	Professional Equipment and Supplies
1	5147	Meats and Meat Products
1	5171	Petroleum Bulk Stations and Terminals
1	5172	Petroleum and Petroleum Products Wholesalers, Except Bulk Stations and Terminals
		Total per Division F - 4 Firms
		G. Retail Trade
1	5251	Hardware Stores
1	5812	Eating Places
3	5983	Fuel Oil Dealers
		Total per Division G - 5 Firms

No. of Firms	Industry No.	Division
		H. Finance, Insurance and Real Estate
1	6531	Real Estate Agents and Managers
		Total per Division H - 1 Firm
		I. Services
1	7241	Barber Shops
6	7349	Cleaning and Maintenance Services to Dwellings, and Other Buildings, Not Elsewhere Classified
1	7369	Personnel Supply Services, Not Elsewhere Classified
1	7372	Computer Programming and Other Software Services
1	7379	Computer Related Services, Not Elsewhere Classified
1	7391	Research and Development Laboratories
8	7392	Management, Consulting, and Public Relations Services
1	7399	Business Services, Not Elsewhere Classified
1	7699	Repair Shops and Related Services, Not Elsewhere Classified
2	7813	Motion Picture Production, Except for Television
1	8321	Individual and Family Social Services
1	8331	Job Training and Vocational Rehabilitation Services
7	8911	Engineering, Architectural and Surveying Services
3	8931	Accounting, Auditing and Bookkeeping Services
		Total per Division I - 35 Firms

SURETY BOND

Question #14: On the subject of the surety bond waiver program, if that program were restored, how many firms would qualify for the waiver and under what circumstances?

Answer #14: SBA has on numerous occasions intensively and comprehensively evaluated the question of what circumstances would or could prevail whereby SBA would or could determine that a small concern qualified for a surety bond waiver. Each such evaluation has led to a conclusion that, considering the statutory conditions prerequisite for such a determination, the circumstances for a bond waiver could not reasonably exist. Thus, our efforts to attempt to quantify the number of firms which could be expected to qualify for bond waiver by SBA have led to the conclusion that no firm could reasonably qualify.

Two key factors are involved: although it might be arguably advanced that SBA could reasonably determine that a concern so situated--as it must between a start-up concern and one under the 8(a) program for not more than a year--nevertheless possesses the capacity and capability with such assistance as SBA could provide to successfully perform the contemplated contract (including the paying of all suppliers), SBA would have to make such a determination in the face of the inability of a private sector expert (surety company) to issue a bond even where 80 or 90 percent of any loss would be reimbursable by the Government. Program officials of SBA's surety bond guarantee program office have been unable to pose a scenerio of circumstances where such a determination reasonably could be made. The likelihood for making a reasonable determination becomes all the more implausible if the scenerio is modified to assume that a surety company indeed recommends to SBA that it guarantee the surety's proposed bond for new firm and SBA, in reasonably applying surety bond guarantee program underwriting standards to the request denies to issue a guarantee. SBA would be placed in an untenable position to later contemplate a determination that no bond at all suddenly now is appropriate.

The extent of the inconsistency of the matter is emphasized when one considers the effect of SBA's granting a bond waiver. Under a waiver SBA would be accepting a surety liability on the contract without any premium consideration whatsoever, and no commercial surety participation. In contrast, authority for the surety bond guarantee program requires both a guarantee fee and surety participation.

Finally, there is a further reason no satisfactory circumstance can be postulated whereby SBA reasonably could waive the contracting agency's bond requirement. This results from the statutory prerequisite that, before any waiver, SBA must determine that the small firm, aided by whatever assistance SBA can provide, can become bondable within a reasonable time. Inasmuch as the private commercial surety sector, and not SBA controls that future destiny, the fulfillment by SBA of this statutory prerequisite can rest on nothing more than a bureaucratic surmise as to a future decision of a private sector surety.

Whatever the number of firms which hypothetically might be postulated as qualifying for a waiver, the fact remains that firms which must pay a guarantee fee for bonding assistance would be discriminated against by those firms which were absolved of bond requirements in toto without any cost to the new firm.

PROCUREMENT ASSISTANCE

Question #15: You have requested $1.3 million in fiscal year 1984 for the Procurement Automated Source System, which is used to match Federal procurement needs to individual capabilities of small business contractors. How often is this system used in the Federal procurement process?

Answer #15: There are approximately 100 remote terminals at government and private sector locations that can directly access the PASS data base of small firms interested in government contracts and subcontracts. On an annual basis, more than 25,000 source searches are made and 200,000 small firms are displayed.

Question #16: How many prime contracts and subcontracts have been awarded as a direct result of the system?

Answer #16: Small firms have reported, on an individual basis, that they have received contracts as a direct result of PASS registration. However, on a composite basis, it is very difficult to discern whether a small firm received a contract as a result of their PASS registration, being on the agency's bidders list, or its own marketing efforts. To create a reporting system to determine how many contracts as a result of PASS would be a cumbersome project and an unnecessary expense.

Question #17: P. L. 95-507 requires prime contracts to submit subcontracting plans on contracts above $500,000 or $1 million for construction contracts. SBA, under the law, is required to monitor these plans to assure that small business is obtaining its share of subcontracts. Based on these reviews, can you assure this subcommittee that prime contractors are adhering to P. L. 95-507?

Answer #17: In the fifteen month period between January 1982 and March 1983, SBA field subcontract specialists nationwide conducted a total of 8,427 compliance reviews of prime contractor performance under subcontract plans accepted and included in major prime contract awards to large business by the federal procuring agency contracting officers. Of the total reviews conducted, the SBA subcontracting specialists concluded that, upon contract completion the prime contractors had fully complied with their subcontract plan provisions in all but 181 prime contracts awarded. Considering the many thousands of major prime contracts awarded annually by all federal procuring agencies, the foregoing statistics would indicate substantial adherence by prime contractors to the Section 211, P.L. 95-507, provisions requiring utilization of small and small disadvantaged business concerns to the maximum practicable extent for the performance of subcontracts.

Question #18: Does SBA have sufficient resources to assure that timber set aside for small businesses is not resold to large businesses which exceed the size standard for timber companies?

Answer #18: The timber sales that are set aside for preferential bidding by small business, require that no less than 70 percent of the saw-logs harvested on these sales be processed by mills that meet the small business size standard.

This requirement becomes a part of the contract by the U.S. Forest Service (USFS) and the Bureau of Land Management (BLM).

In addition to the monitoring function by the SBA, USFS, and the BLM, we rely heavily upon the self policing aspect on these sales by interested small firms that are alert to potential violations that are reported to the USFS or the SBA.

MANAGEMENT ASSISTANCE

Question #19: During the previous Congress the Senate Small Business Committee conducted oversight reviews of several SBA programs. In many cases management assistance was not always provided by SBA hand in hand with financial assistance. As a result, loans and contracts went into default, and businesses failed, when the failures could have been averted. Does SBA plan to put a greater emphasis on direct management assistance in the future?

Answer #19: SBA has taken a number of steps to encourage borrowers and other financial clients to participate in Agency programs of management assistance. One of the priorities for SBA's 1983 field operations is the provision of more intensive management counseling and training to recipients of financial assistance. Local district office goals and objectives have been accordingly established and field performance is being systematically monitored and evaluated.

Question #20: Three years ago the Rockville Consulting Group produced a major impact study of SBA Management Assistance Programs. The study found a "serious discrepancy" between the Management Assistance Program's stated and actual objectives. Although the program's stated objective is to improve the management of small businesses, the actual objective found by the study was to service as many clients as possible. In other words, quantity was stressed over quality. I assume the goals of the program have changed since this study was published. What changes have occurred?

Answer #20: One of the problems typically encountered with any goal setting system revolves around the issue of quality versus quantity. And, this was one of the problem areas cited by the Rockville study. While SBA continues to struggle with this dilemma, new management assistance goals and objectives specifically designed to emphasize quality assistance have been implemented. Management Assistance 1983 Operating Plans include objectives for increasing the intensity and duration of both counseling and training activities. Such performance measures as "in-depth" counseling cases and average number of hours of counseling and training per client are currently being tracked.

Management Assistance has also explicitly reduced the emphasis on increasing the number of clients counseled and trained. Together these initiatives should continue to help emphasize the quality aspects of the Management Assistance program.

Question #21: The Rockville Report also found that 26 district offices participating in management assistance produced negative impacts on clients, while another 13 district offices produced little, if any, average impact on small businesses. Only 5 percent of the offices studied received excellent marks for their work. What steps have been taken to improve the performance of the district offices?

Answer #21: While the Agency did have a number of reservations regarding that portion of the Rockville study comparing relative district office impact, we did recognize the need to improve the performance of a number of our field offices. The institution of an improved system of goals to emphasize program quality represented one such step.

The systematic monitoring of these goals with appropriate field feedback has also improved the performance of those offices. Also instituted on a regular basis has been a comprehensive onsite field evaluation process. Finally, we are exploring the feasibility of a professional certification program for our various professional and volunteer counselors.

DISASTER ASSISTANCE

Question #22: The Budget Reconciliation Act of 1981 requires SBA to use a credit-elsewhere test in its disaster loan program. Disaster loan applicants across the country have complained that the credit elsewhere test is too stringent and inequitable because it penalizes good business managers while being lenient on poor ones. Based on the Agency's experience, what is your assessment of the credit-elsewhere test?

Answer #22: We believe the credit-elsewhere test is accomplishing its basic purpose, that is encouraging those disaster victims who do not need federal assistance to use private resources available to them. Further, we do not agree that the test is either to stringent or inequitable. The Agency guidelines are based on cash flow or available assets and contain many safeguards to help ensure that implementation is not too stringent.

Perhaps part of the problem is caused by confusion between "credit-elsewhere" and "credit worthy." Because these are loans, all borrowers must be creditworthy. "Deadbeats" should not receive SBA loans at either interest rate. The credit-elsewhere test merely determines the ability of the applicant to handle damage repairs through use of other than federal resources. This determination sets the interest rate, and in the case of business loans, the maximum term.

Disaster relief is intended to supplement the normal safeguards that reasonable and prudent businessmen provide for risks. We believe it should be made available for creditworthy businesses that do not have the resources to bring about their own recovery from natural physical disasters.

In four larger disasters subsequent to the passage of P.L. 97-35, 71% of all loans approved were at the lower interest rate. Of the home loans, 70% were at the lower rate and of the business loans, 74% were at the lower rate. It should be noted that even the higher rate for businesses, which is the equivalent of the New York prime rate, is usually lower than the rate most small businesses must pay in normal commercial markets. Our experience indicates that many businesses that complain about the higher interest rate are equally, if not more concerned by the 3-year maximum term that accompanies the higher rate. Their dissatisfaction, for the most part, appears to be caused by recollections of previous program terms and a feeling that low interest, subsidized loans are an entitlement. We believe this perception will change over time.

Question #23: Can you recommend an alternative that would prevent extremely wealthy individuals from obtaining low-interest loans, but perhaps be more fair to other loan applicants?

Answer #23: We cannot recommend an alternative that would prevent extremely wealthy individuals from obtaining low interest loans, but perhaps be more fair to other loan applicants. Without writing a specific formula into the law, there will always be questions raised by the application of judgmental factors. Even a specific formula will create "hard" cases which will raise the question of inequity. Further, even with flexibility, the individual or business that does not receive the lower rate can always make an argument that it should have, because of its own "unique" circumstances. Those who do not need federal aid will many times apply for it if they believe there is a chance of receiving a lower interest rate. The lure of subsidized assistance is extremely strong.

Question #24: Do you believe the disaster loan fund should be used, under any circumstances, to supplement other SBA programs through a transfer of funds in lieu of a supplemental appropriation?

Answer #24: As legislation currently exists, assuming a continuation of the moratorium on farm loans, we would not dissapprove of a transfer of funds from the Disaster fund, as long as the amount in question would not seriously impact budgetary resources needed to accommodate the planned program and a reserve for contingencies.

However, the House Small Business Committee has proposed substantial legislative changes affecting this fund for the remainder of FY 1983 and beyond. These changes ie: restoration of non-physical disaster loans, restoration of farm loans, lower interest rates and a forgiveness credit schedule, would substantially increase demand and thereby require the full use of all existing fund balances. Therefore, any transfer of monies from the Disaster fund would not be concurred by the SBA.

Question #25: As a result of oversight hearings conducted by the Senate Small Business Committee in 1981, SBA reviewed its farm disaster loan program in the Southeast. Last November SBA informed the Committee that the Agency reviewed 6,150 loans and identified nearly $12 million in improper loan proceeds due to duplicate payments, misuse of proceeds, or excess crop yields. I understand SBA collected $1.4 million and expects to collect another $4.5 million in future recoveries on accelerated notes. That amounts to only half the improper proceeds identified. Will the Agency be able to collect the full $12 million?

Answer #25: We are confident that most, if not all of the funds in question will be recovered. Exceptions could occur in the event a farmer-borrower becomes bankrupt or is foreclosed on by secured lenders senior to the SBA debt. At the time the $1.4 million in direct remittances and the $4.5 in accelerated notes figures were reported, less than half of the borrowers in question had individually agreed or acknowledged that a violation had occurred. Having completed that phase of the effort and having established ongoing review routines on the farm loan portfolio, we believe this matter has been satisfactorily resolved.

DEBT COLLECTION

Question #26: Last year the Inspector General Advisory Council on Debt Collection reported that SBA lacked sufficient resources to handle the Agency's burgeoning loan portfolio, and that SBA needed to revamp its collection procedures to avert a financial crisis in the loan portfolio. The Council made several recommendations, including the utilization of private debt collection agencies; requiring banks participating in guarantee programs to service all loans, and liquidate them when necessary; and an end to charging off loans as a means of improving loan delinquency statistics. Given the budget's heavy emphasis on debt collection, are you prepared to adopt these recommendations or improve the debt collection process in other ways?

Answer #26: The report of the Inspector General's Advisory Council on Debt Collection contained the views and ideas of 19 employees from various SBA field offices. The experience level represented in the group ranged from individuals with two or three years experience to some with as many as twenty years service. Lawyers, loan officers, loan servicing assistants, and managers were included in the professional disciplines represented. The report was reviewed within the Central Office by the Office of General Counsel, the Office of the Associate Administrator for Finance and Investment, the Office of the Comptroller, and by the Office of Policy, Planning and Budget. Each of these offices examined their respective issues or problems. A number of conclusions were drawn from these reviews. First, was to compliment the individuals for their time and effort involved in this undertaking. Improving a debt management system, of which debt collection is part, can be better accomplished with input from all levels. It was also recognized that many of the suggestions were already incorporated into changes being planned or were in the process of implementation. Some of the suggestions were either impractical or not cost effective, given the size of the portfolio. In addition, a few of the recommendations were identified as either not good ideas at all or were simply illegal.

The neglect which the report refers to is very likely related to years and years of lack of recognition of the importance of collection activities. The past two and a half years have seen a dramatic change in private and public perceptions of this issue. Our efforts along these lines resulted in nearly $100 million in extral collections last year. Further improvements can be expected as a result of better management, improved computer and communications techniques and improved training efforts.

SBIC's

Question #27: The Inspector General, the President's Private Sector Survey on Cost Control, and now, I understand, the GAO, have concluded that the SBIC Program has an excess idle funds problem. Do you concur with these assessments, and if so, do you agree with the recommendation of the President's survey that idle funds be controlled through the use of a line-of-credit financing system?

Answer #27: We do not concur with the findings of SBA's Inspector General Report, nor with the Report of the President's Private Sector Survey on Cost Control that there is an excess idle funds problem in the SBIC industry. There undoubtedly were at the time of those reports, a limited number of SBICs that had excessive idle funds balances for reasons not associated necessarily with the lack of a line-of-credit financing system.

In spite of our not agreeing with those findings, we feel that funding SBICs in somewhat smaller increments will help reduce unnecessary idle funds, and we have gradually been attempting to do that in our funding process. The upcoming General Accounting Office Report will highlight this issue but, we believe, it will not conclude that a major problem exists.

At this point we would like to call your attention to a letter, incorporated into the record of this Hearing, from Regional Financial Enterprises, Inc. wherein that SBIC has complained to Senator Weicker about not receiving all funds it applied for in one increment. That SBIC's application was funded for less than the amount applied for so that idle funds balances would not be excessive.

If we are to attempt to control idle balances, we must have the support of the Congress as well as the cooperation of the SBICs.

Question #28: The SEC Government-Business Forum on Small Business Capital Formation recommended the creation of a Capital Bank to finance SBICs. What is your assessment of this recommendation?

Answer #28: At the present time, Section 308(g)(2)(A) of the Small Business Investment Act of 1958, requires SBA in its annual report to the Congress to make

> "---recommendations with respect to the feasibility and organization of a small business capital bank to encourage private financing of small business investment companies to replace Government financing of such companies."

SBA has said in its annual report that the existence of the U.S. Treasury's Federal Financing Bank (FFB) effectively makes available a capital bank to SBICs. This statement is customarily based on the assumption that adequate SBIC guaranty authority will permit financing by the FFB.

Page 31 of the SEC's Final Report clearly summarizes that Forum's identification of the reason for the need of a capital bank as follows.

"Recent budget cuts have limited the authorized funding for the SBIC program for fiscal year 1982, and 1983 to a maximum of $160.0 million per year. These restrictions in the availability of leverage occur at a time when the need and demand for leverage have increased. Rapid growth of the industry over the past several years, an increased rate of demand for venture capital and the roll-over of maturing SBIC loans, which must be taken out of annual appropriations, have escalated the SBIC industry's need for leverage. Accordingly, there is a need to establish a stable source of continued funding support, such as a Capital Bank, for the SBIC program."

Based upon the reasoning for the capital bank proposal as set forth in the Forum's Report as repeated above, it appears that the intent and result of the proposal, if implemented, would be to remove budgetary control of the program from Congress. In light of the substantial tax and financial incentives built into the SBIC program, it would seem unusual for Congress not to want to maintain annual budget control of the principal government resource made available to SBICs.

As for the feasibility of such a capital bank, it is our experience that the U.S. Treasury would strongly oppose the creation of yet another government sponsored bank on the grounds that such entities are inefficient and compete with the U.S. Treasury, causing government debt management problems.

SURETY BOND GUARANTEE PROGRAM

Question #29: SBA published a new regulation on business integrity for the Surety Bond Guarantee Program. How will this regulation be used to deal with unscrupulous companies such as those examined at the Small Business Committee's oversight hearings on the Surety Bond Program?

Answer #29: On February 9, 1983, subparagraph (b) of Part 115.3, CFR 13, entitled Business Integrity was published as a final rule.

It provides that SBA may suspend the privilege of a surety to present application for bond guarantees if a regulating authority has denied, revoked, cancelled or suspended the surety's licence; if the surety has been formally charged with or convicted of wrongdoing or received an adverse civil judgment; if the surety has made material misrepresentations or willful false statements regarding guarantee application to the Agency; or if a surety is formally charged with a misdemeanor or crime.

The proceedings against the surety upon occurence of the above is set forth in Part 104.2-12 of CFE 13.

Since the Business Integrity regulation became effective 90 days ago, full investigation of one participant has been requested. The Agency is not presently aware of any of the circumstances outlined above existing with regard to any of its other present participants. If and when they occur, the described regulatory mechanism will be promptly employed.

Question #30: SBA has drafted a regulation allowing the agency to enter into treaties with surety companies. How will these treaties work?

Answer #30: The "treaty" was designed, after consulation by Surety Bond Guarantee staff with reinsurance experts and sureties, to follow normal patterns in that industry. It incorporated variable guarantee percentages. These would be negotiated with the sureties based upon loss rate, surety underwriting and claim staffing and any other factors which might influence underwriting and claims handling.

Many drafts have been prepared, to include amendments and changes required by SBA's Office of General Counsel, to comply with SBA's existing law.

In addition, the Surety Association of American (the "standard" surety organization) has proposed a revision which will require legislative amendment. This revision also has the SBG program office support. It is keyed to significantly lower guarantee levels than at present and reduced workload on SBA's part.

Question #31: Have any treaties been negotiated?

Answer #31: Negotiation (of the first version) awaits final publishing of regulations for comment by the Office of General Counsel of SBA.

The Surety Association of America version, which will require legislative change can, we believe, be quickly negotiated with major companies if the legislation is amended.

QUESTIONS SUBMITTED BY SENATOR HOLLINGS

SMALL BUSINESS ADMINISTRATION

DEBT COLLECTION PROGRAM

Mr. Administrator, there is a remarkable similarity between your opening statement and the one you used last year. For instance, you still refer to "a vigorous debt collection program to curtail delinquencies and losses in our almost "18 billion portfolio."

Question #1: By fund, please list for the record the portfolio and debt as of September 30, 1982, and estimated for fiscal 1983 and 1984.

Answer #1:

SBA's Portfolio at 9/30/82
($ in millions)

	Number	Dollar
Business Loans	144,750	$11,854.3
Disaster Loans	330,272	6,082.5

The portfolio outstanding at a point in time is dependent on the anticipated approvals, repayments and charge-offs. These can vary significantly from year to year, especially in the Disaster Loan Program. If the Agency is able to utilize its entire approved program levels for FY 1983, then the portfolio should show a moderate increase above the 9/30/82 portfolio, except Disaster which will show a slight decrease. The same scenario will hold true to FY 1984.

Question #2: How much did SBA estimate last year would be collected in 1982 by the "vigorous" campaign to collection money owed SBA?

Answer #2: The SBA estimated FY 1982 collections to be $885.7 million. This amount included scheduled repayments and an estimate for the Agency's increased debt collection effort. To this amount, OMB added an Agency debt collection target of $100 million, bringing the total FY 1982 budgeted amount to $985.7 million.

Question #3: How much in debts was actually collected in 1982 and how does that compare to the amount collected in 1981?

Answer #3: Actual repayments in FY 1982 were $836.9 million, and in FY 1981 were $740.5 million. Therefore, the Agency collected $96.4 million more in FY 1982 than in FY 1981.

Question #4: How much in debts did SBA estimate last year would be collected in 1983, and what is the present estimate for 1983?

Answer #4: The SBA estimated FY 1983 collections to be $818.0 million. This amount included the scheduled repayments and an estimate for the Agency's increased debt collection effort. To this amount, OMB added an Agency debt collection target of $120 million, bringing the total FY 1983 budget amount to $938 million. The current Agency estimate for repayments is $801 million.

Question #5: How much is estimated to be collected in 1984?

Answer #5: The SBA estimated FY 1984 collections to be $797.0 million. This amount included the scheduled repayments and an estimate for the Agency's increased debt collection effort. To this amount, OMB added an Agency debt collection target of $175 million, bringing the total FY 1984 budgeted amount to $972 million.

CONTAINERS FOR HARPOON MISSILE

The McDonnell Douglas Corporation produces the Harpoon missile for the Navy. SBA has exercised a small business set aside for containers for these missiles. The Navy would like to commit these missile containers from government furnished equipment (GFE) to contractor furnished equipment (CFE), but SBA opposes the change, presumably because it wants credit for the set-asides.

McDonnell Douglas says that they and the Navy believe that the present GFE arrangement "costs the Government significantly more than CFE would cost." Materials furnished the Subcommittee indicate that over the last 3 years the cost of working around container supply problems have cost the Navy $200,000 and McDonnell Douglas $400,000.

Question #1: Has not McDonnell Douglas assured SBA that it will maintain small businesses in production of the containers, and that the suppliers have documented their willingness to SBA to work directly with McDonnell Douglas on the Harpoon program?

Answer #1: It is true that McDonnell Douglas (MDAC) has indicated that they will continue to utilize the current small business container suppliers through the use of a subcontracting clause. The SBA is of the opinion that MDAC will work with these small businesses until a problem occurs. At that point MDAC can petition the out new suppliers, some of whom will undoubtedly the large businesses. In addition, the use of "mandatory" subcontracting clauses have been found to be legally unenforceable. We do not believe that MDAC's objective in this matter is to eliminate the use of small business concerns in the production of the missile containers. However, we do believe that such a possibility exists if any problems occur in the purchasing/production process or if MDAC ultimately decides to produce the containers "in house" on the sole source basis.

It is also true that many of the current container suppliers have been contacted by the prime weapon system contractor to ascertain whether or not they would like to participate as a subcontractor and deal directly with the large company. The small businesses were "informed" that the Navy had already decided to convert the containers from GFE to CFE, and they were asked whether they would be willing to do businesses with the large prime contractor in light of the Navy's new acquisition strategy. (We are providing as enclosure #1 a copy of the initial letter sent from the large business to one of the small business concerns on this subject.) Every small business queried responded in the affirmative. We believe that the Navy had made a final decision not to purchase these items directly from small business under small business set-asides; and if they wanted to supply HARPOON containers then they would have to do so as a subcontractor to the large system prime contractor. Given this scenario, these small businesses, using sound business judgment, had no choice but to respond affirmatively. Conversations that SBA subsequently had with some of these small business concerns, revealed that a majority of the firms would prefer to remain prime contractors dealing directly with the Navy. However, if the Navy "marketplace" becomes nonexistent, then the small businesses must be willing to sell to whatever market becomes available. (We are providing as enclosure #2 a copy of a letter from a small business concern on this matter.)

Question #2: SBA is concerned that the small businesses will lose their program payments if McDonnell Douglas becomes the prime contractor, but is it not true that the company now gives 95% progress payments to its suppliers; and in addition provides financial and technical assistance as well as material and equipment to its suppliers?

Answer #2: The McDonnell Douglas Astronautics Company (MDAC) has, in fact, indicated that they provide 95 percent progress payments to its suppliers. However, recent information provided by the U.S. Navy on MDAC's purchasing system reveals that out of 8,359 active subcontracts with small business concerns only 16 of those subcontracts (or .19 percent) contain a progress payment clause. (We are providing as enclosure #3 a copy of that information.) MDAC has also indicated that it can, and does, provide assistance to small business in the form of technical advice or procurement assistance where needed. The SBA is not aware of any specifics regarding such assistance by MDAC.

Question #3: Due to production delays that McDonnell Douglas cannot presently monitor, the Navy had to round up wooden boxes as substitute containers. Does SBA disagree that McDonnell Douglas as prime contractor could monitor container supplies and avoid costly workaround procedures and additional storage and handling costs?

Answer #3: The SBA has not been informed by the Navy that there are production delays involving the HARPOON containers. To the contrary, as long ago as July 1981, the SBA was provided information by Navy officials that deliveries were "on schedule" and that quality was "acceptable to requirements" (see enclosure #4). It is our understanding that there were, in fact, problems initially with container deliveries. However, these problems were the direct result of inadequate or faulty government specifications and test procedures which necessitated time delays to initiate required engineering changes. The SBA is also aware that a small disadvantaged business which was awarded a contract to supply containers under Section 8(a) procedures of the Small Business Act, did have problems producing the containers. This firm was forced to subcontract the work to one of the current small business suppliers.

The SBA is not aware of circumstances involving the utilization of wooden boxes as substitute containers. We can only believe that this represents an isolated incident and not the norm.

In addition, the SBA believes that the responsibility of proper contract administration of the container contracts rests with the U.S. Navy. We believe that MDAC could monitor container supplies but are unsure as to how they might realize any cost savings since they would presumably be utilizing the same small business container producers that are currently supplying the Navy.

Based on information provided by the U.S. Navy, we believe that the current small business container suppliers are delivering quality products in a timely manner.

PRIORITY ASSISTANCE

Your statement indicates that "SBA will provide priority assistance to minority, handicapped, and first-time borrowers where the market may overestimate the risk."

Question #1: With what will you provide priority assistance since there are no funds budgeted for direct loans in fiscal 1984?

Answer #1: The SBA will make every effort to address the needs of these groups through its available resources in the guaranty programs, in addition to the monies requested for the Minority Enterprise Small Business Investment Company program.

Question #2: How much chance does a minority businessman have of making it with a guaranteed high interest rate loan?

Answer #2: With a continued improved economy, the market rate on SBA guaranty loans should be at such a level that minority businessmen can afford to undertake new or increased debt and expect to repay that indebtedness to the participating bank. The first half of this year has shown that interest rate ceilings on SBA guaranteed loans have been reduced substantially (17 1/4% @ 9/30/82 to 13 1/4% @ 3/31/83). This continued improvement will enable more businesses, especially minority businesses, to participate more fully in the available Agency resources.

Question #3: Your stated reasons for eliminating direct loans are identical to the ones in last year's statement. Since they weren't persuasive to Congress,-- particularly our House counterparts -- last year, don't you have something more compelling to offer this year?

Answer #3: Unlike last year, this year has seen a progressively improving economy. This will effect lending in the private sector and translate to increased resources for the small businessman. Therefore, the majority of the barriers for private credit sources have been removed or at least reduced. The statements concerning our relatively small impact on the small business constituency are accurate, as well as the statements concerning the private sector's ability to better provide credit assistance to this constituency. We still agree that the minority small businessman has a more difficult time in utilizing private credit sources than does the non-minority small businessman, even in light of an improved economy and private credit supply. It is for this reason, that we will emphasize the direction of our efforts and available resources to those minority small businessman.

VIETNAM AND DISABLED VETERANS

Question #1: For fiscal 1983, Congress provided $25,000,000 to begin a new direct loan program for Vietnam and disabled veterans. Now that the proposed deferral of these funds has been rejected by the House of Representatives, what is SBA doing to get this program underway?

Answer #1: SBA immediately notified all regional budget officers, by telephone, of the availability of monies for Vietnam and Disabled Veterans upon disapproval of the deferral on March 10, 1983. Since that time, specific instructions regarding program eligibility and budgeting of loan funds have been forwarded to all effected personnel. The Agency is funding these loans on a case by case basis through the Central Office, with monies being made available immediately upon request.

In addition, the program has been publicized in various ways by SBA, including the preparation of a fact sheet for distribution to potential applicants.

APPOINTMENT OF A CONVICTED FELON

According to the Florida Press, SBA appointed Charles H. Rogers, Jr., to an advisory committee. The press accounts indicated that Mr. Rogers was convicted in Michigan of mail and wire fraud, was wanted by Scotland Yard for assault and for passing bad checks and also owed IRS $18,284 for 30 months back taxes.

Question #1: Was Mr. Rogers investigated by the FBI before he was appointed to the advisory committee?

Answer #1: Yes. The standard FBI check request was submitted on 3-25-82.

Question #2: Did SBA have the FBI information about Mr. Rogers before he was appointed to the advisory committee?

Answer #2: No. The form returned from the FBI dated 4-20-82 was stamped, "Check of FBI Headquarters investigative files based upon data submitted and limited pursuant to established policy located on identifiable information pertinent to your inquiry. This is not to be considered as a clearance. A request to check arrest records must be submitted to FBI Identification Division. Fingerprints are necessary for a positive check."

Question #3: Why was Mr. Rogers appointed to the advisory committee in view of the FBI information about his background, or why wasn't he removed upon receipt of this information?

Answer #3: The FBI information concerning his background was not available to the Advisory Council or the Investigations Division prior to his appointment. When information concerning his background did become available, steps were taken to verify the information so that appropriate action could be taken. Mr. Rogers submitted his resignation on February 25, 1983.

COMMITMENTS FOR GUARANTEED LOANS

Congress provided for a total of $3,000,000,000 in commitments for guaranteed SBA loans in fiscal 1983. On January 18, 1983, the Comptroller-General ruled that pursuant to Section 145 of Public Law 97-276 (the Continuing Resolution for fiscal 1983) agencies must "enter into loan commitments . . . to the full extent provided by appropriation acts" unless there is a lack of qualified applicants.

Question #1:	Why does SBA only plan to guarantee $1,910,000,000 in guaranteed 7(a) loans in fiscal 1983 instead of the $2,510,000,000 prescribed in the conference agreement on the Continuing Resolution?
Answer #1:	The $1,910 million referred to is the deferred program level proposed by OMB. Since the disapproval of this deferral on March 10, 1983, these monies have been restored to the full $2,510 million level appropriated.

JRC-0782-23
15 July 1982

A. C. Incorporated
1004 Oster Drive
P.O. Box 1650
Huntsville, AL 35807

Attention: Mr. P. Dunnaway, President

Subject: Harpoon Missile Program Containers

1. McDonnell Douglas Astronautics Company - St. Louis (MDAC-St. Louis) is prime contractor for the U.S. Navy Harpoon Weapon System. The Navy's Harpoon Program Office, PMA-258, has initiated action to convert all equipment previously supplied as Government Furnished Equipment (GFE) to Contractor Furnished Equipment (CFE).

2. The U. S. Navy plan is to convert part of the containers to CFE for FY 1983, with full conversion of containers to CFE in FY 1984. Conversion is already underway with one container under firm contract to a Small Business supplier, and quotes from other Small Business suppliers are in review at MDAC-St. Louis for the FY83 buy.

3. Because we are encountering a new business relationship and since your company is classified as "Small Business", the following information may be of interest:

- MDAC-St. Louis intends, and has pledged to the Navy, to continue procurement of shipping containers as a Small Business set aside.
- McDonnell Douglas has an excellent Small Business program. In 1981 more than $400 million in contracts was awarded to Small Business from the St. Louis operation alone.
- Additional shipping container designs will be procured in the future; presenting additional Harpoon business opportunities.
- MDAC-St. Louis provides 95% progress payments and prompt payment of invoices for Small Business.
- MDAC-St. Louis can, and does, provide assistance to Small Business in the form of technical advice or procurement assistance where needed.

MDAC-St. Louis sincerely wants to see Small Business succeed. We expect good quality products delivered on schedule and we will help you to achieve these results.

4. MDAC-St. Louis is helping coordinate the efforts on transitioning Harpoon shipping containers from Government procurement to Contractor Furnished Equipment within the U. S. Navy and with the Small Business Administration. A. C. Incorporated is requested to provide a letter stating your company's willingness to contract directly with MDAC-St. Louis for future shipping container procurements. Your letter will be forwarded to the U. S. Navy and Small Business Administration. If you have any questions on this matter, please contact the writer at (314) 925-5676..

MCDONNELL DOUGLAS CORPORATION

J.R. Cummings

J. R. Cummings
Harpoon Subcontracts Manager
McDonnell Douglas Astronautics Company - St. Louis

10/12/82 Jake Friedman was in this date to introduce Lanson's President and V.P. for Marketing - also delivered this cy for our review (has not been mailed) - (cf. desk diary for details). D

October 6, 1982

Naval Air Systems Command
Department of the Navy
NAVAIR 00E
478 JP-1
Washington, DC 20361

Attention: Mr. John Lenahan

Subject: Lanson Letter dated September 28, 1982 to NAVAIR 00E

Dear Mr. Lenahan:

Reference is made to our conversation this morning regarding the Harpoon Container Program. I deeply regret the confusion this letter has caused and specifically the exclusion of our desire to work directly with the U. S. Navy on this program. Your support to the Small Business community has been superb over the years and we at Lanson appreciate this very much.

? As you know, the Government procurement policy has changed to buy total weapon systems from major prime contractors. This has necessitated small businesses to work closely with these prime contractors to obtain much needed work. We have also observed another Government procurement policy in purchasing containers. This policy allows both qualified and unqualified companies ? to bid on the same item without regard to ability of meeting cost, schedule or performance. It is a rare occasion when marginal companies are given a negative preaward survey based upon IFB solicitations.

This procurement approach hurts qualified companies due to the lack of work and it also hurts the Government because they do not receive the needed products on time nor do the products meet quality standards. This is a policy we would like to see SBA take a strong position on and eliminate.

Mr. Lenahan, Lanson Industries, Inc. is proud to be a contractor for the Department of Defense and we stand ready to support the U. S. Navy in any way we can. Please contact us anytime we can be of service to you.

Sincerely,

Roger C. Humphrey

Roger C. Humphrey
Vice-President Marketing

RCH/d

01 December 1982
MSS1282-01

Department of the Navy
Naval Air Systems Command
Naval Plant Representative Office
McDonnell Douglas Corporation
P.O. Box 516
St. Louis, MO 63166

Attention: Lt. R. K. Cooper

Subject: Contractor Purchasing System Surveillance; Request For Data

Reference: (a) R. K. Cooper Letter No. CTS:RKC:cjc 4285 dated 27 October 1982
(b) C. W. Hippisley Letter No. CWH1182-05 dated 16 November 1982

Gentlemen:

1. Per request made in Reference (a), and in consonance with Reference (b), the following information is herein provided in the paragraph format of Reference (a):

a. Number of active subcontracts (small business):

8,359

b. Dollar value of active subcontracts (small business):

$102,144,267.

c. Number of active subcontracts containing a progress payment clause (small business):

16

d. Number of active subcontracts under which the subcontractor is currently receiving progress payments (small business):

12

e. Dollar value of active subcontracts under which the subcontractor is currently receiving progress payments (small business):

$6,298,661.

f. Number of active subcontracts (large business):

6,539

g. Dollar value of active subcontracts (large business):

$1,342,247,380.

h. Number of active subcontracts containing a progress payment clause (large business):

150

i. Number of active subcontracts under which the subcontractor is currently receiving progress payments (large business):

115

j. Dollar value of active subcontracts under which the subcontractor is currently receiving progress payments (large business):

$606,749,793.

Very truly yours,

MCDONNELL DOUGLAS CORPORATION

Marilyn Schoeck

M. S. Schoeck
Sr. Procurement Coordinator
MCDONNELL DOUGLAS ASTRONAUTICS COMPANY - ST. LOUIS DIVISION

PROGRESS PAYMENTS
MDAC

LARGE SMALL

DOLLAR VALUE OF ALL CONTRACTS:
1,342,247,380 102,144,267

DOLLAR VALUE OF CONTRACTS PAYING PROGRESS PAYMENTS:
606,749,793 6,298,661

% OF DOLLAR VALUE INVOLVING PROGRESS PAYMENTS:
45.2% 6.2%

OF CONTRACTS
6539 8359

OF CONTRACTS CONTAINING PROGRESS PAYMENT CLAUSE:
150 for 2.30% 16 for .19%

OF CONTRACTS ACTUALLY UTILIZING PROGRESS PAYMENTS:
115 for 1.76% 12 for .14%

HARPOON containers currently procured by NOS Louisville for PMA-258

Contractors (all small business)

Advance Mach - Los Angeles, Ca
A. C. Inc - Huntsville, Ala
Yankee Mach. - Boise, Idaho
Containers Research - Glen Riddle, Pa

Type of Contracts

all SBA - Competitive

* Deliveries

On schedule*

* Quality

acceptable to requirements

Advance Mach is 20 units behind sched. on one container (MK 672). However this is due to workload on other HARPOON containers. No impact on program.

H. C. Graham
ESA-7041 Fd
433-4807/8/9/10   7/9/91

QUESTIONS SUBMITTED BY SENATOR EAGLETON

McDonnell Douglas Astronautics Company (MDAC)--a division of McDonnell Douglas Corporation, Missouri's largest employer--has been petitioning the SBA for some time now to drop its objection to conversion of the Harpoon Missile container program from GFE to CFE. Information I have received indicates that MDAC, the Navy, and numerous container suppliers support the conversion. MDAC also contends that conversion from GFE to CFE will rectify a serious "late delivery" problem and result in cost savings.

Question #1: If the relevant Small Business Companies are willing to contract directly with MDAC, and the conversion will benefit the taxpayer, why does the SBA oppose change?

Answer #1: The Small Business Act, which is the enabling legislation establishing the Small Business Administration and its responsibilities, at Section 2(a) states, in part,

> ...It is the declared policy of the Congress that the government should aid, counsel, assist, and protect, insofar as possible the interests of small business concerns in order to preserve free competitive enterprise, to insure that a fair proportion of the total purchases and contracts...be placed with small business enterprise...to maintain and strengthen the overall economy of the Nation."

One means of effectuating this policy is through Section 15(a) of the Small Business Act which provides authority for making small business set-asides. Section 15(a) states that "small business concerns within the meaning of the Small Business Act shall receive any award or contract or any part thereof as to which it is determined by the Small Business Administration:

> (1) to be in the interest of maintaining or mobilizing the Nation's full productive capacity,
>
> (2) to be in the interest of war or national defense program,
>
> (3) to be in the interest of assuring that a fair proportion of total purchases and contracts for property and services of the government are placed with small business concerns.

Federal acquisition regulations further require that all procurements must be considered for small business set-asides.

The HARPOON missile containers are currently being supplied to the Navy by several small business concerns under the small business set-aside acquisition procedures. The Navy, in turn, is providing the containers to McDonnell Douglas Astronautics Company as government furnished equipment (GFE). It is the Navy's intention, in concert with the large business weapon system prime contractor, to convert the missile containers from GFE to contractor furnished equipment (CFE).

The SBA is opposed to this conversion because this acquisition strategy runs counter to the SBA's basic responsibilities under the Small Business Act to "protect the interest of small business concerns." We firmly believe that the role of small business in supplying the HARPOON containers should be that of a prime contractor dealing directly with the U.S. Navy. As prime contractors these small business concerns have, historically, provided the Navy with quality containers, in a timely manner and at reasonable prices obtained through full and open competition among their peers (also see question #5).

If the Navy's acquisition strategy were to be implemented, the small business concerns would be relegated to the subordinate role of a potential subcontractor to the "sole source" large business system prime contractor. Many of the current container suppliers have been contacted by the prime weapon system contractor to ascertain whether or not they would like to participate as a subcontractor and deal directly with the large company. The small businesses were "informed" that the Navy had already decided to convert the containers from GFE to CFE, and they were asked whether they would be willing to do business with the large prime contractor in light of the Navy's new acquisition strategy. (We are providing as enclosure #1 a copy of the initial letter sent from the large business to one of the small business concerns on this subject.) Every small business queried responded in the affirmative. We believe that the responses were predicated on the assumption that the Navy had made a final decision not to purchase these items directly from small business under small business set-asides; and if they wanted to supply HARPOON containers then they would have to do so as a subcontractor to the large system prime contractor. Given this scenario, these small businesses, using sound business judgment, had no choice but to respond affirmatively. Conversations that SBA subsequently had with some of these small business concerns, revealed that a majority of the firms would prefer to remain prime contractors dealing directly with the Navy. However, if the Navy "marketplace" becomes nonexistent, then the small businesses must be willing to sell to whatever market becomes available. (We are providing as enclosure #2 a copy of a letter from a small business concern on this matter.)

The SBA must question the large business contention that by permitting the small business suppliers of the containers to subcontract with their company that they will achieve savings for the government and obtain better quality containers in a more timely manner. Since the large business would presumably purchase the containers from the same small businesses currently supplying the Navy, the prices they pay for the various containers should be comparable under both the Navy or the large business contract. We believe, however, that normal business practice would dictate that the large business pass on its higher overhead rate, profit, and the sundry administrative costs incurred in the subcontracting process to the Navy. In effect, the Navy would be paying a "middleman" to obtain the same containers. The only discernible benefit to the Navy would be the lessening of the administrative burdens associated with the letting of the contracts and subsequent contract administration responsibilities. The congressional policy and implementing federal acquisition regulations do not allow a contracting agency to circumvent the intent of the small business program for administrative convenience, especially where no substantial cost savings to the government have been demonstrated.

The Navy's intention to convert these containers from GFE to CFE causes an additional concern to the SBA.

By attempting to "break back" these containers into the large business sole source prime contract, the Navy is setting a precedent which, we believe, would adversely impact on the small business community at-large. The "break back" acquisition strategy is also a deviation from the Department of Defense's component breakout policy which is set forth in the Defense Acquisition Regulation at Section 1-326 (see enclosure #3). The SBA is continually seeking out new opportunities so that the small businesses of this Nation can participate in the federal acquisition process as prime contractors.

In summary, the SBA in its ongoing efforts to carry out the congressional mandate to "...aid, counsel, assist, and protect, insofar as is possible, the interest of small business concerns..."must maintain its opposition to the conversion of the HARPOON missile containers from GFE to CFE.

Question #2: What are the disadvantages of conversion?

Answer #2: The SBA believes that there are several disadvantages concomitant to the conversion of the containers from GFE to CFE. The conversion would immediately result in small business concerns going from government prime contractors to large business subcontractors. We believe that there are disadvantages in performing in the role of a subcontractor. Many small businesses find that they are required to adhere to the standard contract provisions as stipulated in a large prime contractor's purchasing policies. Usually, there is no option for negotiating the terms and conditions even when those provisions adversely impact the business operations of small businesses. As examples, we point to the seldom use of progress payments to small business subcontractors and to the frequent use of performance bonds by large corporations. In addition, avenues of legal redress in cases of contract disputes are very limited in the private sector. As you are aware, all government contracts contain the "Disputes" clause which allows a small firm to seek a remedy when problems arise in the performance of a contract. The small business firm can also, in the role of a government prime contractor, protest the actions of a federal acquisition agency through the General Accounting Office and in some cases, through the Contract Board of Appeals. These avenues are not available to the small subcontractor. All problems with a contract must be resolved directly with the prime contractor, usually through the use of the expensive court process. Another disadvantage to the conversion of the containers is the expected cost increase to the government. This increase can be attributed to the costs associated with the subcontracting process and the additional level through which the acquisition of the containers must pass (i.e., large business prime will add its overhead, general and administrative costs, and profit to the cost of the containers).

The SBA believes that the "break back" acquisition strategy proposed by the Navy in this case will have long term detrimental effects on the Navy's small business prime contracts program and will serve as a precedent for future "break back" efforts.

Question #3: What information, if any, does the SBA have that would indicate that conversion is not in the best interest of the Small Business Companies affected?

Answer #3: While the SBA does not have in its possession any specific information on this case which would indicate that the conversion of the containers is not in the best interests of the small business concerns affected, we also do not have any specific information which would indicate that the conversion would be beneficial to those small firms. We must rely on the guidance provided in the Small Business Act and implementing regulations to do what we believe will best serve the interests of the small businesses in this case. Over the years, the small business concern's role of prime contractor in the federal acquisition process has been a successful one; and the SBA, by statute, must fully support and encourage small businesses to maintain that role as a prime contractor.

Question #4: On March 16, 1983, the SBA wrote Congressman Ronnie G. Flippo on this subject. In that correspondence, the SBA states:

> "Empirical evidence has shown that no discernible benefits accrue to the small business community when its place in the federal contracting process is reduced from that of a prime contractor...to the subordinate role of a potential subcontractor to a sole source large business system prime contractor."

What specific information does the SBA have to refute the contention that the proposed conversion is in the best interest of all involved?

Answer #4: Statistical information on the large prime contractor's small business subcontracting program shows that for Fiscal Year 1982, the firm awarded 14.9 percent of its contracts to small business concerns (see enclosure #4). By comparison, other major aerospace prime contractors doing business with the Department of Defense did consideraly better in their efforts to utilize small business concerns in the performance of their subcontracts. These prime contractors have awarded from a low 25 percent to a high 45 percent of their contracts to small business concerns.

In addition, information on the large prime contractor's purchasing system reveals that out of 8,359 active subcontracts with small business concerns only 16 of those subcontracts (or .19 percent) contain a progress payment clause. (see enclosure #5)

Unfortunately, these statistics do not fully support the large prime contractor's assertion that the interests of small business are protected in their purchasing system.

Question #5: The letter to Congressman Flippo goes on to state:

> "Additionally, it is our understanding that the small business container suppliers...are currently providing the Navy with quality containers in a timely manner in accordance with contract requirements."

What specific information does the SBA have that would refute MDAC's contention that "late deliveries" are a serious and persistent problem?

Answer #5: Unless there are recent problems with container deliveries the SBA is unaware that "late deliveries" are a serious and persistent problem. To the contrary, as long ago as July 1981, the SBA was provided information by Navy officials that deliveries were "on schedule" and that quality was "acceptable to requirements" (see enclosure #6). It is our understanding that there were, in fact, problems initially with container deliveries. However, those problems were the direct result of inadequate or faulty government specifications and test procedures which necessitated time delays to initiate required engineering changes. The SBA is also aware that a small disadvantaged business which was awarded a contract to supply containers under Section 8(a) procedures of the Small Business Act, did have problems producing the containers. This firm was forced to subcontract the work to one of the current small business suppliers.

However, to our knowledge, the current small business container suppliers are delivering quality products in a timely manner.

JRC-0782-23
15 July 1982

A. C. Incorporated
1004 Oster Drive
P.O. Box 1650
Huntsville, AL 35807

Attention: Mr. P. Dunnaway, President

Subject: Harpoon Missile Program Containers

1. McDonnell Douglas Astronautics Company - St. Louis (MDAC-St. Louis) is prime contractor for the U.S. Navy Harpoon Weapon System. The Navy's Harpoon Program Office, PMA-258, has initiated action to convert all equipment previously supplied as Government Furnished Equipment (GFE) to Contractor Furnished Equipment (CFE).

2. The U. S. Navy plan is to convert part of the containers to CFE for FY 1983, with full conversion of containers to CFE in FY 1984. Conversion is already underway with one container under firm contract to a Small Business supplier, and quotes from other Small Business suppliers are in review at MDAC-St. Louis for the FY83 buy.

3. Because we are encountering a new business relationship and since your company is classified as "Small Business", the following information may be of interest:

- MDAC-St. Louis intends, and has pledged to the Navy, to continue procurement of shipping containers as a Small Business set aside.
- McDonnell Douglas has an excellent Small Business program. In 1981 more than $400 million in contracts was awarded to Small Business from the St. Louis operation alone.
- Additional shipping container designs will be procured in the future; presenting additional Harpoon business opportunities.
- MDAC-St. Louis provides 95% progress payments and prompt payment of invoices for Small Business.
- MDAC-St. Louis can, and does, provide assistance to Small Business in the form of technical advice or procurement assistance where needed.

MDAC-St. Louis sincerely wants to see Small Business succeed. We expect good quality products delivered on schedule and we will help you to achieve these results.

4. MDAC-St. Louis is helping coordinate the efforts on transitioning Harpoon shipping containers from Government procurement to Contractor Furnished Equipment within the U. S. Navy and with the Small Business Administration. A. C. Incorporated is requested to provide a letter stating your company's willingness to contract directly with MDAC-St. Louis for future shipping container procurements. Your letter will be forwarded to the U. S. Navy and Small Business Administration. If you have any questions on this matter, please contact the writer at (314) 925-5676..

MCDONNELL DOUGLAS CORPORATION

J. R. Cummings

J. R. Cummings
Harpoon Subcontracts Manager
McDonnell Douglas Astronautics Company - St. Louis

October 6, 1982

Naval Air Systems Command
Department of the Navy
NAVAIR 00E
478 JP-1
Washington, DC 20361

Attention: Mr. John Lenahan

Subject: Lanson Letter dated September 28, 1982 to NAVAIR 00E

Dear Mr. Lanahan:

Reference is made to our conversation this morning regarding the Harpoon Container Program. I deeply regret the confusion this letter has caused and specifically the exclusion of our desire to work directly with the U. S. Navy on this program. Your support to the Small Business community has been superb over the years and we at Lanson appreciate this very much.

As you know, the Government procurement policy has changed to buy total weapon systems from major prime contractors. This has necessitated small businesses to work closely with these prime contractors to obtain much needed work. We have also observed another Government procurement policy in purchasing containers. This policy allows both qualified and unqualified companies to bid on the same item without regard to ability of meeting cost, schedule or performance. It is a rare occasion when marginal companies are given a negative preaward survey based upon IFB solicitations.

This procurement approach hurts qualified companies due to the lack of work and it also hurts the Government because they do not receive the needed products on time nor do the products meet quality standards. This is a policy we would like to see SBA take a strong position on and eliminate.

Mr. Lenahan, Lanson Industries, Inc. is proud to be a contractor for the Department of Defense and we stand ready to support the U. S. Navy in any way we can. Please contact us anytime we can be of service to you.

Sincerely,

Roger C. Humphrey
Vice-President Marketing

RCH/d

tend to the total quantity of each item and not to the quantity for each destination, it may be desirable to express a percentage limitation for each destination to prevent unrealistic distribution of any increase or decrease.

[¶32,084.10]

1-325.2 *Subsistence*. The permissible variation in the procurement of small quantities of subsistence may be stated in the Schedule as follows:

(i) Standard pack items purchased on a package, carton, can or other than pound basis: maximum variation for 250 units or less— nearest full shipping container.

(ii) Nonstandard pack items other than carcass meats not purchased on a package, carton, or can basis: maximum variation for 250 pounds or less— nearest piece or shipping container.

(iii) Carcass meats: maximum variation for 500 pounds or less— nearest piece, quarter, side or carcass.

[¶32,084.15]

1-326 Component Breakout.

1-326.1 *Scope of Paragraph.*

(a) This paragraph sets forth guidance for making decisions on whether or not components should be purchased by the Government directly and furnished to an end item contractor as Government-furnished material, for incorporation in the end item. This paragraph, however, does not pertain to all such decisions, but only to those which deal with whether components that have been included as contractor-furnished material in a previous procurement of the end item should be "broken out" from a forthcoming end item procurement for direct Government purchase. Thus, except as set forth in 1-2101, this paragraph does not pertain to the initial Government-furnished equipment/contractor-furnished equipment decisions that must be made at the inception of a procurement program.

(b) Items procured as spare parts are governed by the "DoD High Dollar Spare Parts Breakout Program" described in DoD Joint Regulation AR 715-22, NAVMATINST P4200.33, AFR 57-6, MCO P4200.13, DSAM 4105.2, and are not covered by this paragraph.

(c) This paragraph applies to procurements of weapons systems or other items of major equipment involving components whose direct purchase by the Government may result in substantial net cost savings over the life of the procurement program. Accordingly, it will seldom be applicable to a procurement of such a system or item of less than $1,000,000. The term "component", as used in this paragraph, includes subsystems, assemblies, subassemblies, and other major elements of an end item, but does not include elements of relatively small annual purchase value.

1-326.2 *Policy*. Whenever it is anticipated that the prime contract for a weapons system or other major end item will be awarded without adequate price competition, and the prime contractor is expected to acquire a component without such competition, it is Department of Defense policy to break out that component if:

(i) substantial net cost savings will probably be achieved; and

(ii) such action will not jeopardize the quality, reliability, performance or timely delivery of the end item.

The desirability of breakout should also be considered (regardless of whether the prime contract or the component being purchased by the prime contractor is on

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the basis of price competition) whenever substantial net cost savings will result, (A) from greater quantity purchases or (B) from such factors as improved logistics support through reduction in varieties of spare parts and economies in operations and training through standardization of design. Primary breakout consideration shall be given to those components of the end item representing the highest annual procurement costs and offering the largest potential net savings through breakout.

1-326.3 *Responsibility for Component Breakout Selection, Review and Decision*. The program manager, project manager, project officer, program director, or other official responsible for the material program concerned, supported by a project team (to include the Small Business Specialist, cognizant engineering, production, logistics, maintenance and other appropriate personnel, and the contracting officer or his designee), shall be responsible for:

(i) earmarking as susceptible to breakout those components potentially conforming to the criteria and policy set forth herein;
(ii) conducting the breakout review and evaluation described in 1-326.4;
(iii) making the decision whether or not to break out the component; and
(iv) preparing records explaining such decisions in compliance with 1-326.5.

[¶32,085]

1-326.4 *Breakout Guidelines.*

(a) Each decision on whether or not to break out a component must embrace (i) assessment of the potential risks of degrading the end item through such contingencies as delayed delivery and reduced reliability of the component, (ii) calculation of estimated net cost savings (*i.e.*, estimated purchase savings less any offsetting costs), and (iii) analysis of the technical, operational, logistic and administrative factors involved. As to each of these, the decision must be supported by adequate explanatory information, including an assessment by, and consultation with, the end item contractor when feasible.

(b) In deciding whether a component should be broken out, the guidelines set forth below (in the form of questions) should be considered. Answers will rarely be "positively yes" or "positively no" but usually "probably yes" or "probably no", with the degree of probability governed by the facts of the particular case. The decision will depend largely upon the degree and significance of the risks to quality performance, reliability and timely delivery of the end item which would be involved in breakout and upon the estimated overall cost savings. Where the risks, if any, are acceptable and breakout is expected to result in substantial overall cost savings, the component should be broken out. On the other hand, if such risks are unacceptable, the components should not be broken out.

(i) Are the design of the component (and the design of the end item insofar as it will affect the component) sufficiently stable that further design or engineering effort by the end item contractor in respect to the component is unlikely to be required?
(ii) Is a suitable data package available with rights to use it for Government procurement? (Note that breakout may be warranted even though competitive procurement is not possible.) (See Section IX, Part 2.)
(iii) Can any problems of quality control and reliability of the component be resolved without requiring effort by the end item contractor?

(iv) Is it anticipated that requirements for technical support (*i.e.*, functions such as development of proposed detailed specifications; development of test requirements to prove design adequacy or compliance with design; monitoring tests to assure compliance with established requirements; definition of quality assurance requirements for production of articles; and analysis and correction of service-revealed deficiencies) heretofore performed by the end item contractor will be negligible? If not, does the Government have the resources (manpower, technical competence, facilities, etc.) to provide such support, or can such support be obtained from the end item contractor (even though the component is broken out) or other source?

(v) Can breakout be accomplished without causing unacceptable difficulties in logistics support (*e.g.*, by jeopardizing requisite standardization of components)?

(vi) Can breakout be accomplished without causing over fragmentation of the end item that might materially impede administration, management, and performance of the end item contract (*e.g.*, by unduly complicating production scheduling or identifying (and fixing responsibility for) end item failure that may be caused by a defective component)?

(vii) Can breakout be accomplished without jeopardizing delivery requirements of the end item?

(viii) If a decision is made to break out a component and to acquire it from a new source, can advance procurement funds be made available to provide that source any necessary additional lead time?

(ix) Is there a source other than the present manufacturer capable of supplying the component?

(x) Has the component been (or is it known that it is going to be) purchased directly by the Government as a support item in the supply system or as GFE in other end items?

(xi) Would the financial risks and other responsibilities being assumed by the prime contractor that will have to be assumed by the Government if the item is broken out be acceptable?

(xii) Will breakout result in substantial net cost savings? Estimates of probable savings in cost, should be developed for each case on its own facts, with consideration given to any estimated offsetting costs such as increases in the cost of requirements determination and control, contracting, contract administration, data package purchase, material inspection, qualification or preproduction testing, ground support and test equipment, transportation, security, storage, distribution, and technical support.

(c) If application of the guidelines in (b) above reveals conditions currently unfavorable to breakout, the feasibility of eliminating such conditions should be considered. For example, where adequate technical support is not available from Government resources, or similar assistance must be obtained in order to successfully accomplish breakout, consideration should be given to the procurement of

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the necessary services, such as product assurance suitability services, from the end item contractor or other qualified source.

[¶32,086]

1–326.5 *Records and Review Procedure.* The records of the purchasing activity shall contain documentation of:

(i) those components which have been reviewed and determined to have no potential for breakout;

(ii) those components which have been reviewed and earmarked as being susceptible to breakout pursuant to 1–326.3; and

(iii) those components for which a decision to break out has been made.

Documentation of these three categories, and for those components once earmarked but no longer considered susceptible to breakout, shall be signed by the cognizant project manager or other designated official and reflect the facts and conditions of the case, including any assessment by the contractor, and the basis for the decision. Components that have been earmarked for potential breakout shall be reviewed well in advance of each successive procurement, with a decision made as to whether the component will be broken out for the ensuing procurement. Such reviews, made preferably in the course of requirements determination, but in any event before procurement of the requirement is initiated, shall be repeated until a final decision on whether or not to break out is reached, and shall be documented. When breakout is delayed or postponed, the documentation shall include a description of the actions required to accomplish breakout, identify the activities responsible for such actions, and indicate the fiscal year when breakout should be effected.

[¶32,087]

1–327 Protection of Individual Privacy.

1–327.1 *General.*

(a) Section 3 of the Privacy Act of 1974 (Public Law 93–579, 31 December 1974; 5 U.S.C. 552a), and OMB Circular No. A–108, 9 July 1975, requires that when a Federal agency contracts for the design, development, operation or maintenance of a system of records on individuals on behalf of the agency in order to accomplish an agency function, the agency must apply the requirements of the Act to the contractor and his employees working on that contract. Systems of records on individuals operated under a contract which are designed to accomplish an agency function are deemed to be maintained by the agency and are subject to Section 3 of the Act. All procurement requirements will be reviewed by the contracting officer when they are submitted to determine whether the operation of a system of records on individuals as defined in Appendix P (DoD Directive 5400.11), or the design or development of such a system, will be required of the contractor. If so, the solicitation and contract shall include the appropriate notification in 7–2003.72 and clause in 7–104.96, and pertinent implementing Departmental regulations. All contract work statements shall specifically identify (i) the system or systems of records on individuals and (ii) the work to be performed by the contractor in terms of any one or combination of the following: (A) design, (B) development, or (C) operation.

(b) A Department which within the limits of its authority fails to require that systems of records on individuals operated on its behalf under contracts be operated in conformance with the Privacy Act may be civilly liable to individuals injured as a consequence of any subsequent failure to maintain records in con-

ENCLOSURE 11

SUMMARY SUBCONTRACT REPORT

(Report to be submitted quarterly. See Instructions on reverse) (Type or Print)

FORM APPROVED OMB NO. 3090-0083

1. CONTRACTING AGENCY: Department of Defense
2. ADMINISTERING AGENCY: NAVPRO
3. DATE OF LAST GOVERNMENT REVIEW: 5 August 1982
4. REVIEWING AGENCY: SBA/NAVPRO
5. DUNS NO.: 00-626-5946
6. REPORT SUBMITTED AS: ☐ PRIME CONTRACTOR ☐ SUBCONTRACTOR ☒

7. CORPORATION, COMPANY, OR SUBDIVISION COVERED (Name, Address, ZIP Code)

McDonnell Aircraft Company
McDonnell Douglas Astronautics Co.-St. Louis
P. O. Box 516
St. Louis, MO 63166 .

8. MAJOR PRODUCTS OR SERVICES

a. Aerospace Products
b.
c.

NOV 5 PM 1 17

CUMULATIVE COMMITMENTS

Subcontract and Purchase Commitments for the Period October 1, 19 81 through September 30, 19 82

COMMITMENTS	CURRENT FISCAL YEAR (To date)		SAME PERIOD LAST YEAR	
	DOLLARS	PERCENT	DOLLARS	PERCE
9. TOTAL (Sum of a and b)	1,759,315,808	100	1,648,654,974	10
a. SMALL BUSINESS CONCERNS	261,352,144	14.9	269,225,129	16.
b. LARGE BUSINESS CONCERNS	1,497,963,664	85.1	1,379,429,845	83.
10. SMALL DISADVANTAGED BUSINESS CONCERNS (# & % of 9)	14,972,303	.9	15,076,152	
11. LABOR SURPLUS AREA CONCERNS (# & % of 9)	480,958,600	27.3	695,732,400	42.

SUBCONTRACT GOAL ACHIEVEMENT

GOALS	NO. OF CONTRACTS	$ VALUE OF SUBCONTRACTS (000)	$ VALUE OF SUBCONTRACT GOALS	ACTUAL GOAL ACHIEVEMENT	
				DOLLARS	
12. CONTRACTS WITH SMALL BUSINESS SUBCONTRACT GOALS					
a. ACTIVE CONTRACTS	103	2,556,360,796	675,534,820		
b. CONTRACTS COMPLETED THIS QUARTER WHICH MET GOALS	3	3,741,235	122,387	122,387	1
c. CONTRACTS COMPLETED THIS QUARTER NOT MEETING GOALS	---	---	---	---	
13. CONTRACTS WITH SMALL DISADVANT. BUS. SUBCONTRACT GOALS					
a. ACTIVE CONTRACTS	66	2,525,875,424	28,991,810		
b. CONTRACTS COMPLETED THIS QUARTER WHICH MET GOALS	1	1,752,000	4,891	4,891	1
c. CONTRACTS COMPLETED THIS QUARTER NOT MEETING GOALS	---	---	---	---	

14. REMARKS *(Enter a short narrative explanation if: (a) Zero is entered in Blocks 9a or 10 for current fiscal year, (b) the percent entry in Block 9a for current fiscal year is more than 5 percentage points below the percent reported for same period last year, or (c) the percent entry in Block 10 for current fiscal year is lower than the percent reported for same period last year.)*

15. NAME AND TITLE OF LIAISON OFFICER J. J. Finnegan - Manager Small/ Disadvantaged Business & Supplier Evaluation	SIGNATURE	DATE 10/20/82	TELEPHONE NO. (and Area Code) 314-232-8722
16. NAME AND TITLE OF APPROVING OFFICIAL R. J. Alagna Staff Vice President Material	SIGNATURE J R Boyle for	DATE 10/21/82	

01 December 1982
MSS1282-01

Department of the Navy
Naval Air Systems Command
Naval Plant Representative Office
McDonnell Douglas Corporation
P.O. Box 516
St. Louis, MO 63166

Attention: Lt. R. K. Cooper

Subject: Contractor Purchasing System Surveillance; Request For Data

Reference: (a) R. K. Cooper Letter No. CTS:RKC:cjc 4285 dated 27 October 1982
(b) C. W. Hippisley Letter No. CWH1182-05 dated 16 November 1982

Gentlemen:

1. Per request made in Reference (a), and in consonance with Reference (b), the following information is herein provided in the paragraph format of Reference (a):

a. Number of active subcontracts (small business):

8,359

b. Dollar value of active subcontracts (small business):

$102,144,267.

c. Number of active subcontracts containing a progress payment clause (small business):

16

d. Number of active subcontracts under which the subcontractor is currently receiving progress payments (small business):

12

e. Dollar value of active subcontracts under which the subcontractor is currently receiving progress payments (small business):

$6,298,661.

f. Number of active subcontracts (large business):

6,539

g. Dollar value of active subcontracts (large business):

$1 342,247,380.

h. Number of active subcontracts containing a progress payment clause (large business):

150

i. Number of active subcontracts under which the subcontractor is currently receiving progress payments (large business):

115

j. Dollar value of active subcontracts under which the subcontractor is currently receiving progress payments (large business):

$606,749,793.

Very truly yours,

MCDONNELL DOUGLAS CORPORATION

Marilyn Schoeck

M. S. Schoeck
Sr. Procurement Coordinator
MCDONNELL DOUGLAS ASTRONAUTICS COMPANY - ST. LOUIS DIVISION

PROGRESS PAYMENTS
MDAC

	LARGE	SMALL
DOLLAR VALUE OF ALL CONTRACTS:	1,342,247,380	102,144,267
DOLLAR VALUE OF CONTRACTS PAYING PROGRESS PAYMENTS:	606,749,793	6,298,661
% OF DOLLAR VALUE INVOLVING PROGRESS PAYMENTS:	45.2%	6.2%
# OF CONTRACTS	6539	8357
# OF CONTRACTS CONTAINING PROGRESS PAYMENT CLAUSE:	150 for 2.30%	16 for .19%
# OF CONTRACTS ACTUALLY UTILIZING PROGRESS PAYMENTS:	115 for 1.76%	12 for .14%

HARPOON containers currently procured by NOS Louisville for PMA-258

Contractors (all small business)

Advance Mach - Los Angeles, Ca
A. C. Inc - Huntsville, Ala
Yankee Mach. - Boise, Idaho
Container Research - Glen Riddle, Pa

Type of Contracts

all IFB - Competitive

* Deliveries

On schedule*

* Quality

acceptable to requirements

Advance Mach is 20 units behind sched on one container (MK 632). However this is due to workload on other HARPOON containers. No impact on program.

H.C. Graham
ESA-7041 ts
433-4807/9/8/10 7/9/91

MARINE MAMMAL COMMISSION

STATEMENT OF DONALD K. MacCALLUM, PH. D., COMMISSIONER, MARINE MAMMAL COMMISSION

ACCOMPANIED BY:

JOHN R. TWISS, JR., EXECUTIVE DIRECTOR
ROBERT J. HOFMAN, PH. D., SCIENTIFIC PROGRAM DIRECTOR
ROBERT EISENBUD, GENERAL COUNSEL

PREPARED STATEMENT

Senator WEICKER. The last agency to appear before the committee is the Marine Mammal Commission. Dr. Donald MacCallum will give the testimony.

Dr. MacCallum, why don't you introduce those who accompany you. Your statement in its entirety will be placed in the record at this point.

[The statement follows:]

PREPARED STATEMENT OF DONALD K. MACCALLUM
COMMISSIONER
MARINE MAMMAL COMMISSION

Good morning, Mr. Chairman and Members of the Committee. My name is Donald K. MacCallum, and I am a Member of the Marine Mammal Commission. With me today are: John R. Twiss, Jr., Executive Director; Robert J. Hofman, Scientific Program Director; and Robert Eisenbud, General Counsel. It is a pleasure to appear before you to present this brief statement.

FY 1983 to Date

In our submission to this Committee last year, we said that in 1983 we would stress: implementing the Hawaiian Monk Seal Recovery Plan, the Southern Sea Otter Recovery Plan, and the Convention on the Conservation of Antarctic Marine Living Resources; developing an ecologically sound regime to govern exploration and exploitation of Antarctic mineral resources; continuing work on the return of marine mammal management to the State of Alaska; identifying and developing measures to mitigate marine mammal/fishery conflicts; and improving the planning and coordination of Federal and state marine mammal research and management programs.

With regard to the Hawaiian monk seal, the Commission, its Committee of Scientific Advisors, and senior staff met in late February with representatives of the State of Hawaii, the National Marine Fisheries Service, the Fish and Wildlife Service, and other groups to discuss a variety of matters related to protecting and encouraging the recovery of this endangered species.

We reviewed needed research and management activities, the nearly completed recovery plan, interactions between Hawaiian fisheries and monk seals, and the difficulties of maintaining a sound program with widely varying yearly budgets. Following the meeting, we concluded negotiations for the transfer of the $150,000 to the National Marine Fisheries Service for certain clearly described and mutually agreed upon activities. With your permission, I would like to insert a summary of those projects in the record at this point. As a general comment, although the situation remains critical, the outlook for the Hawaiian monk seal has changed dramatically in the past three years. The turning point occurred when this Committee directed that a substantial investment be made in monk seal research. As a result of that directive and hard work on the part of the National Marine Fisheries Service staff in Hawaii, a strong research and management program was started which continues this year.

The Recovery Plan for the southern sea otter population was completed and adopted by the Fish and Wildlife Service in February 1982. Among the things recommended in the Plan was that one or more sea otter colonies be established outside the present range so as to decrease risks to the population from oil spills. In order to pick the best sites to establish colonies, the Fish and Wildife Service contracted for the mapping and compilation of various types of biological, ecological, and socio-economic information that bear on site selection. This analysis, based upon the Commission's recommended scope of work and started with $10,000 of Commission money, will provide interested parties with a common ground for discussion. While the study is not yet finished, preliminary results are already being used by representatives of the Fish and Wildlife Service, the States of California, Oregon, and Washington, the oil and gas industry, the fishing industry, the environmental community, and the academic community.

With regard to the Antarctic, the Commission has continued to provide much of the biological expertise for the United

States in international negotiations. Last year, Dr. Hofman served as scientific advisor to our delegations, and, in the case of the Living Resources Scientific Committee, as U.S. representative. His participation encompassed meetings of the Antarctic Commission and the Scientific Committee, intergovernmental meetings at which negotiations were started to develop a system to govern non-living resource activities in the Antarctic, and discussions preparatory to the next meeting of Treaty nations. The most recent of these meetings was in Canberra two weeks ago.

The process of returning marine mammal management authority to the State of Alaska has been slow, and there was little progress over the last year. New Federal procedures and regulations concerning return of management are, however, about to be published, and the question of subsistence taking has been addressed through State referendum. The newly-elected Governor has made known the State's intention to seek return of management, and the first steps to accomplish this will be taken once the final regulations are published in May. To help those in government agencies and the private sector more fully understand and be prepared to deal with the marine mammal situation in Alaska, we contracted for a general review by a wildlife biologist familiar with the situation. This has proved and is proving useful to us and others as we prepare to receive the State's request.

Marine mammal/fishery conflicts generally take several forms -- direct and indirect competition between fishermen and marine mammals for fish and marine mammal mortality as a result of entanglement in nets that have either been discarded or are being actively used in fishing. With respect to the question of competition, we have continued cooperative work with the States of Washington, Oregon, and California, and are beginning work with Hawaii. In addition, work with the North Pacific Fishery Management Council, the National

Marine Fisheries Service, the Fish and Wildlife Service, and the Minerals Management Service continues as well. With respect to the mortality problem, we have taken the initiative in seeing that this serious problem, particularly as it relates to discarded nets and other debris, be addressed internationally. This is a matter of great concern with respect to both the North Pacific fur seal and the Hawaiian monk seal. As for marine mammal mortality in the course of active fishing, we have greatly increased our efforts with the State of California to address sea otter deaths in gill and trammel nets -- a serious threat to that population.

These and other efforts are more fully described in our most recent Annual Report.

Objectives for 1984

The Commission is meeting its statutory responsibilities and will continue to do so in Fiscal Year 1984. Among these are:

- to recommend to the Secretaries of Commerce, Interior, and State needed actions to protect and conserve marine mammals;
- to help coordinate academic, state, Federal, and international research and study efforts to increase yields and prevent wasteful, duplicative research;
- to manage and publish the results of a research and studies program in which specific problems bearing on marine mammal protection and conservation are addressed;
- to recommend to the Secretaries of Commerce and Interior actions on the issuance of permits to take marine mammals;

- to make recommendations to the Secretaries of Commerce and Interior on waivers of the moratorium, the resumption of state management, and related matters; and
- to participate in and make recommendations affecting the United States' posture in international negotiations affecting marine mammals.

While meeting our statutory responsibilities in FY 1984, we shall focus on: implementing the provisions of the Hawaiian Monk Seal Recovery Plan; developing and implementing an agreed plan for establishing one or more southern sea otter colonies outside the present range; reducing marine mammal mortality in active and discarded fishing gear; developing data and procedures, including measures to mitigate marine mammal/fishery conflicts, for cooperatively managing fisheries and marine mammals in the Bering Sea and elsewhere; helping to negotiate improved international agreements to protect marine mammals including developing an ecologically sound regime to govern mineral exploration and exploitation in the Antarctic; expediting return of marine mammal management to the State of Alaska and other states; and improving planning and coordination of marine mammal research being conducted or supported by the Minerals Management Service, the National Marine Fisheries Service, the Fish and Wildlife Service, and other organizations.

The available money will be used to conduct program reviews and planning meetings. As in the past, we shall work closely with involved states.

Conclusions

The Commission, among other things, has been instrumental in: developing domestic policies to protect and conserve marine mammals; facilitating development and providing guidance with respect to negotiation of international agreements affecting marine mammal conservation; developing biologically sound and legally constructive approaches to requests for waivers of the moratorium; working with state agencies to facilitate marine mammal conservation and protection; assuring that research needs are defined clearly and that research programs are planned and coordinated so as to obtain needed information as quickly and as economically as possible; objectively exercising its overview responsibilities to assist agencies in addressing critical issues; ensuring that agencies seek to enforce the provisions of the Act; and providing an overview of activities conducted pursuant to the Act.

For FY 84, the Administration requests $638,000 to allow the Commission to continue this important work.

Senator **Weicker**. You may proceed in any way you deem fit.

Dr. **MacCallum**. Thank you, Senator Weicker. With me today are Mr. John Twiss, executive director; Dr. Robert Hofman, scientific program director; and Mr. Robert Eisenbud, General Counsel.

With your permission, I would like to give an abbreviated statement.

Senator **Weicker**. Go right ahead.

FISCAL YEAR 1983 TO DATE

Dr. **MacCallum**. In our submission to this committee last year, we said that in 1983 we would stress: Implementing the Hawaiian Monk Seal Recovery Plan, the Southern Sea Otter Recovery Plan, and the Convention on the Conservation of Antarctic Marine Living Resources; developing an ecologically sound regime to govern exploration and exploitation of Antarctic mineral resources; continuing work on the return of marine mammal management to the State of Alaska; identifying and developing measures to mitigate marine mammal/fishery conflicts; and improving the planning and coordination of Federal and State marine mammal research and management programs.

With regard to the Hawaiian monk seal, the Commission, its Committee of Scientific Advisers, and senior staff met in late February with representatives of the State of Hawaii, the National Marine Fisheries Service, the Fish and Wildlife Service, and other groups to discuss a variety of matters related to protecting and encouraging the recovery of this endangered species.

We reviewed needed research and management activities, the nearly completed recovery plan, interactions between Hawaiian fisheries and monk seals, and the difficulties of maintaining a sound program with widely varying yearly budgets. Following the meeting, we concluded negotiations for the transfer of the $150,000 to the National Marine Fisheries Service for certain clearly described and mutually agreed upon activities. With your permission, I would like to insert a summary of those projects in the record at this point.

Senator **Weicker**. They will be included in the record.

Dr. **MacCallum**. Thank you.

[The information follows:]

AGREEMENT
BETWEEN THE NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, AND THE MARINE MAMMAL COMMISSION FOR AN INTER-AGENCY TRANSFER OF FUNDS IN SUPPORT OF RESEARCH AND OTHER ACTIVITIES BEARING ON THE PROTECTION AND RECOVERY OF THE HAWAIIAN MONK SEAL

This document constitutes an Agreement between the National Marine Fisheries Service, National Oceanic and Atmospheric Administration (hereinafter referred to as the "NMFS") and the Marine Mammal Commission (hereinafter referred to as the "MMC") for the transfer of funds from the MMC to the NMFS for support of research and other activities bearing on the protection and recovery of the Hawaiian monk seal, Monachus schauinslandi.

WHEREAS, the MMC and the NMFS share the view that the research and other activities described in the attached research and activities plan should be carried out in 1983; and

WHEREAS, the support of the studies and activities described in the plan will necessitate the expenditure of funds and manpower not presently available to the NMFS;

Now, THEREFORE, the Parties do hereby mutually agree that:

1. the MMC will transfer $150,000 to the NMFS for use in supporting the mutually agreed upon research and other activities described in the attached plan;

2. the NMFS, as possible, will provide the logistic support, equipment, and supplies needed to conduct the agreed upon research and other activities;

3. the NMFS will provide technical expertise to assist in planning the work and analyzing the data therefrom, and will retain all responsibility for administering research or other activities to be conducted under contract to the NMFS; and

4. the NMFS will: consult with the MMC concerning the selection of any contractors; provide such periodic status reports to the MMC and other interested parties as may be agreed upon; require that progress and final reports submitted under the terms of any contract issued pursuant to this Agreement be provided simultaneously to the NMFS and the MMC; and provide the MMC with copies of all relevant correspondence to and from the contractor(s).

IN WITNESS WHEREOF, the Parties have executed this Agreement in triplicate as of the day and year indicated.

For the National Marine
Fisheries Service
William G. Gordon
Assistant Administrator
for Fisheries
(for) Samuel W. McKean

2-22-83
Date

For the Marine Mammal
Commission

John R. Twiss, Jr.

13 April 1983
Date

FY 83 PLAN FOR RESEARCH AND OTHER ACTIVITIES RELATED TO THE PROTECTION AND RECOVERY OF THE HAWAIIAN MONK SEAL

The Hawaiian monk seal, Monachus schauinslandi, inhabits areas on and near the Northwestern Hawaiian Islands. Population counts have declined substantially in the last two decades on five of the six atolls consistently inhabited by monk seals and, because of this decline, the species has been designated "endangered" under the Endangered Species Act and "depleted" under the Marine Mammal Protection Act.

The National Marine Fisheries Service is the agency with primary responsibility, under both the Endangered Species Act and the Marine Mammal Protection Act, for identifying and taking, or causing other agencies to take, appropriate and necessary actions to protect and encourage recovery of the species. In partial fulfillment of this responsibility, the Service has supported relevant studies and has constituted a Recovery Team to develop the Hawaiian Monk Seal Recovery Plan and maintain an overview of activities conducted pursuant to the Plan. The Plan is expected to be completed and adopted by the Service early in 1983. The Service, in consultation with the Marine Mammal Commission, has reviewed a draft of the plan and determined that the following research and management activities should be undertaken in 1983.

1. Completion of Data Analyses and Reports from 1982 Studies

In 1982, the National Marine Fisheries Service conducted or supported a number of projects or studies including: (a) a captive pup rearing project at Kure Atoll; (b) depth-of-dive and activity pattern studies at Lisianski Island; and (c) population surveys, food preference studies, behavior studies, and/or methodological studies at Laysan Island, Pearl and Hermes Reef, and French Frigate Shoals. The data from these studies have not yet been analyzed completely or reported.

Completion of the data analysis and report preparation will cost approximately $46,500.

2. Reassessment of Available Population Data

A number of monk seal surveys and related population studies have been carried out since the late 1950's. Data from these surveys and studies indicate that the number of monk seals hauling-out on five of the six atolls consistently inhabited by monk seals has declined substantially since the mid-1960's. However, since all the surveys were not conducted by the same people at the same time of day and at the same time of year, the data therefrom are not directly comparable. There is a need, therefore, to try to standardize the survey data and to reassess them using the best available model or models so as to estimate changes in absolute population size and distribution since the late 1950's.

The estimated cost of this study is $10,000.

3. Continuation of the Pup Rearing Program and Related Studies at Kure Atoll

The low survival of monk seal pups born on Kure Atoll may well be due to sharks killing the pups shortly after weaning and recovery of the Kure Atoll monk seal population will require increased pup survival. To determine whether this can be accomplished, the National Marine Fisheries Service began in 1981 to collect female pups soon after weaning and maintain them until September of each year in an enclosed area of beach and water at Green Island, Kure Atoll. The project was continued in 1982 with promising results (4 of 5 pups maintained in the enclosure in 1981 were sighted regularly over one year after release), and it would be desirable to continue the program and related assessment studies for at least another one to five years.

The estimated cost of this project in 1983 is $42,000.

4. Assessment and Mitigation of Possible Mortality due to Entanglement in Lost or Discarded Fishing Gear

Studies carried out by Dr. Charles Fowler at the National Marine Mammal Laboratory indicate that entanglement in lost or discarded fishing gear may result in the death of substantial numbers of North Pacific fur seals in the Bering Sea and elsewhere. Lost or discarded fishing gear is also found washed-up on the beaches of the Northwestern Hawaiian Islands, and entanglement in that gear, either on the beaches or at sea, could be partially or substantially responsible for the observed monk seal decline. It is imperative that immediate steps be taken to assess the possible extent and consequences of monk seal mortality due to entanglement and also to identify and take appropriate and necessary steps to avoid or reduce mortality from entanglement. Since it is known that fur seals, other marine mammals, birds, sea turtles and fish, as well as monk seals, are caught and killed in lost or discarded fishing gear from time to time, a logical first step is to hold a workshop to determine: the types, probable sources, and amounts of lost or discarded fishing gear present in various areas; the species and numbers of marine mammals, birds, turtles, etc. apparently being caught and killed in such gear; domestic and international laws,

The estimated cost of this project, including logistic support, is $108,000 for FY 1983.

7. Continuation of Surveys, Behavioral Observations, and Beach Counts of Monk Seals at French Frigate Shoals

The Fish and Wildlife Service, the National Marine Fisheries Service, and volunteer personnel have been conducting periodic behavioral observations, beach counts, monthly aerial surveys, and other studies of Hawaiian monk seals at French Frigate Shoals. The studies are providing information needed to develop economical procedures for population assessment and monitoring as well as basic biological data. They should be continued at least at the current level of effort.

The estimated cost of this project is $35,400.

8. Review and Expansion of Information, Education, and Enforcement Programs

Scientists, fishermen, military personnel, and others working on or visiting the Northwestern Hawaiian Islands may inadvertently disturb monk seals, sea turtles, and other endangered species that inhabit the islands. Since disturbance can have significant adverse effects, it should be either avoided or minimized. The Fish and Wildlife Service, the National Marine Fisheries Service, Navy, Coast Guard, and relevant State agencies all recognize the need to avoid and minimize disturbance, and, to this end, either have developed or are developing information, education, observer, and enforcement programs to ensure that people under their jurisdiction know and comply with applicable laws and regulations. These programs, not fully adequate now, should be reviewed and expanded where necessary.

The estimated cost of this project is $5,000 to $10,000, depending upon the amount of new material required to update existing information and education programs.

9. Recovery Team Meeting

A meeting of the Hawaiian Monk Seal Recovery Team should be held following the 1983 summer field season to: review the results of research and other activities carried out in 1983; review and up-date the Recovery Plan; and recommend actions that should be taken in 1984 to continue effective implementation of the Recovery Plan.

The estimated cost of this meeting is $5,000 to $8,000.

CHANGES IN OUTLOOK FOR HAWAIIAN MONK SEAL

Dr. MacCallum. As a general comment, although the situation remains critical, the outlook for the Hawaiian monk seal has changed dramatically in the past 3 years. The turning point occurred when this committee directed that a substantial investment be made in monk seal research. As a result of that directive and hard work on the part of the National Marine Fisheries Service staff in Hawaii, a strong research and management program was started which continues this year.

OTHER SIGNIFICANT ISSUES

The Recovery Plan for the southern sea otter population was completed and adopted by the Fish and Wildlife Service in February 1982. Among the things recommended in the plan was that one or more sea otter colonies be established outside the present range so as to decrease risks to the population from oil spills. In order to pick the best sites to establish colonies, the Fish and Wildlife Service contracted for the mapping and compilation of various types of biological, ecological, and socioeconomic information that bear on site selection.

This analysis, based upon the Commission's recommended scope of work and started with $10,000 of Commission money, will provide interested parties with a common ground for discussion. While the study is not yet finished, preliminary results are already being used by representatives of the Fish and Wildlife Service, the States of California, Oregon and Washington, the oil and gas industry, the fishing industry, the environmental community, and the academic community.

With regard to the Antarctic, the Commission has continued to provide much of the biological expertise for the United States in international negotiations. Last year, Dr. Hofman served as scientific adviser to our delegations, and, in the case of the Living Resources Scientific Committee, as U.S. representative. His participation encompassed meetings of the Antarctic Commission and the Scientific Committee, intergovernmental meetings at which negotiations were started to develop a system to govern nonliving resource activities in the Antarctic, and discussions preparatory to the next meeting of treaty nations. The most recent of these meetings was in Canberra 2 weeks ago.

The process of returning marine mammal management authority to the State of Alaska has been slow, and there was little progress over the last year. New Federal procedures and regulations concerning return of management are, however, about to be published, and the question of subsistence taking has been addressed through State referendum. The newly elected Governor has made known the State's intention to seek return of management, and the first steps to accomplish this will be taken once the final regulations are published in May.

To help those in Government agencies and the private sector more fully understand and be prepared to deal with the marine mammal situation in Alaska, we contracted for a general review by a wildlife biologist familiar with the situation. This has proved and is proving useful to us and others as we prepare to receive the State's request.

Marine mammal/fishery conflicts generally take several forms—direct and indirect competition between fishermen and marine mammals for fish and marine mammal mortality as a result of entanglement in nets that have either been discarded or are being actively used in fishing. With respect to the question of competition, we have continued cooperative work with various Federal agencies, the States of Washington, Oregon, and California, and are beginning to work with Hawaii. With respect to the mortality problem, we have taken the initiative in seeing that this serious problem, particularly as it relates to discarded nets and other debris, be addressed internationally. This is a matter of great concern with respect to both the North Pacific fur seal and the Hawaiian monk seal. As for marine mammal mortality in the course of active fishing, we have greatly increased our efforts with the State of California to address sea otter deaths in gill and trammel nets—a serious threat to that population.

These and other efforts are more fully described in our most recent annual report.

OBJECTIVES FOR FISCAL YEAR 1984

We will continue to meet our statutory responsibilities in fiscal year 1984 as described in my prepared statement.

While doing so, we shall focus on: (1) implementing the provisions of the Hawaiian Monk Seal Recovery Plan; (2) developing and implementing an agreed plan for establishing one or more southern sea otter colonies outside the present range; (3) reducing marine mammal mortality in active and discarded fishing gear; (4) developing data and procedures, including measures to mitigate marine mammal/fishery conflicts, for cooperatively managing fisheries and marine mammals; (5) helping to negotiate improved international agreements to protect marine mammals including developing an ecologically sound regime to govern mineral exploration and exploitation in the Antarctic; (6) expediting the return of marine mammal management to the State of Alaska and other States; and (7) improving planning and coordination of marine mammal research amongst Federal agencies and other organizations.

For fiscal year 1984, the administration requests $638,000 to allow the Commission to continue this important work.

Thank you. We would be pleased to answer any questions.

BUDGET SPECIFICS

Senator **Weicker**. Thank you very much.

Of the $638,000 request, how much is for staff and salaries, and how much is for research and study?

Dr. **MacCallum**. The research and studies portion is approximately $45,000. Mr. Twiss can answer on the staff amount.

Mr. **Twiss**. All of the salaries and expenses other than research and studies, Senator Weicker, come to about $593,000. Salaries of staff, Committee of Scientific Advisers, and Commissioners are $390,000 with $31,000 in benefits.

Senator WEICKER. Salaries bring it up over $400,000. Then what?

Mr. TWISS. Then our travel budget is $38,000; our rent is $36,000; communications and other rents, $26,000; supplies and printing, $19,000; GSA support costs for personnel services and accounting, $25,000; court reporters, $6,000; and roughly another $20,000 for equipment, equipment maintenance, duplicating, messenger service, and other miscellaneous expenses. That leaves us between $40,000 and $45,000 for research in the $638,000 budget.

Senator WEICKER. That doesn't leave you very much for research, does it?

Mr. TWISS. Actually very little in terms of research. Of of that $40,000 to $45,000, a good bit is already spoken for by statute. For example, we have to do our survey of federally funded research as well as meet other statutory requirements. In terms of free money for research, it is very, very little.

Senator WEICKER. If you are not going to do research, what is this Commission going to do?

Dr. MACCALLUM. I would be glad to try to answer that.

Senator WEICKER. I mean, you have almost zero funding there. What is going to happen?

Dr. MACCALLUM. We do continue to have our Committee of Scientific Advisers, convened in a series of small working groups or as a whole, examine particular issues such as the southern sea otter, the tursiops population off Florida, monk seals, and fur seals. They also evaluate environmental impact statements and permit applications.

Senator WEICKER. What about manatees?

Dr. MACCALLUM. We do have the manatee working group chaired by Dr. Domning.

Senator WEICKER. Didn't we ask for that the last time?

Dr. MACCALLUM. Go ahead, John.

Mr. TWISS. I think your bringing up the manatees is a perfect example of what we can do when we do have some money. You gave us $100,000 and told us to dig into the manatee problem, which we did, and to set up working groups on the committee and within the State of Florida. I think the situation in Florida now is reflective of what good use was made of that money. But in answer to your earlier question and in terms of what we can do with this present budget, we cannot take on any issue, as we did manatees, at this level. We could not take on monk seals as we did before for example. It was in fact the injection of real money that allowed us to deal with those issues successfully.

Senator WEICKER. Have you had any other requests presented to you for studies such as the manatee or the monk seal or any specific requests made for a special study?

Dr. MACCALLUM. We have two or three major problems facing us such as deaths from entanglement in discarded fishing nets. There are a great number of net pieces and other debris floating around in the Pacific. They are said to cause the deaths of perhaps more than 60,000 fur seals annually. We also saw, first hand, problems with the Hawaiian monk seal, which is, of course, a much smaller population. We just recently concluded an agreement with the National Marine Fisheries Service to hold a workshop on net entanglement. There is much more work that could be done in that regard for sure.

We also have the problem of the translocation of the southern sea otter, which is going to require more work and more study. It appears we are getting to the point now where or one or two colonies are going to be established to site distant from their present location as to prevent decimation of that population if there is a significant oil spill.

There is also a possible problem in the North Atlantic particularly with the right whale. A portion of the right whale population apparently spends the winter off the Georgia and Florida coasts, and perhaps mating and calving occur here as well. This may be a wintering ground for the right whale and we know very little about the number of animals involved or their behavior. There are, Mr. Chairman, a number of useful projects that could be undertaken had we the money.

Senator **Weicker**. I don't have any further questions at this point. I want to take a careful look at this. I think staff will be in touch with you on the aspect of the research portion of the budget.

I just think there is still obviously valuable work to be done here. It seems to me we are almost getting to the point where people will jump up and say you are not doing anything, so let's eliminate it. That is a self-fulfilling prophecy at this point.

Thank you very much.

Dr. **MacCallum**. Thank you, Mr. Chairman.

SUBMITTED QUESTIONS

Senator **Weicker**. Senator Laxalt and I have submitted questions which we will ask you to answer for the record.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR LAXALT

Marine Mammal Commission

1. What activities is the Commission involved in in the Antarctic?

Since 1975, the Commission has been involved in negotiations, both here and abroad, that affect the Antarctic. While the primary thrust of Commission involvement since 1975 has been in the development of a convention on the conservation of living resources, the Commission has also been involved recently in international discussions of a regime to govern non-living resource activities. The Commission's Scientific Program Director, Dr. Robert J. Hofman, has been involved in the discussions here and abroad and has served as the U.S. representative on the Antarctic Scientific Committee. Members of the Commission's Committee of Scientific Advisors, including the Chairman, Dr. Douglas G. Chapman, have been actively involved in meetings of the Ad hoc Scientific Group to prepare U.S. positions for the various negotiations. The Commission views a strong, continued presence in Antarctic matters as important.

2. What is the progress of efforts to return management of marine mammals in Alaska to the state?

The Commission has recently learned from the State of Alaska that it does in fact intend to seek return of management for nine species of marine mammals and that its request should be received by the Federal Government by mid-June at the latest.

3. What action has been taken with the funds provided this fiscal year for California sea otter research?

The Commission has contracted for studies to: (a) assess past, present, and future risks of oil spills in and near the California sea otter range; (b) continue and expand California Department of Fish and Game efforts to assess the incidental take of sea otters and other non-target species in gill and trammel net fisheries in and near Morro and Monterey Bays; (c) photograph and map kelp canopies to facilitate sea otter censuses being planned by the California Department of Fish and Game and the Fish and Wildlife Service; and (d) determine whether and, if so, how existing salvage/necropsy programs should be revised or expanded to provide more reliable information on the annual number and causes of sea otter mortality in different parts of the California range.

4. How serious is the problem of net entanglement with respect to the North Pacific fur seal and Hawaiian monk seal?

Project scientists from the Marine Mammal Laboratory at the Northwest and Alaska Fisheries Center estimate that more than 50,000 North Pacific fur seals die each year due to entanglement in lost or discarded fishing gear. This is more than 5 percent of the current population estimate and will cause the population to be reduced to less than half its present size in 10 to 12 years unless steps are taken immediately to stop at-sea dumping of net fragments and packing bands as well as to clean-up net fragments and packing bands that already have been lost or discarded.

The situation with the Hawaiian monk seal is not as well documented but is being investigated. Preliminary study results indicate that substantial quantities of net fragments are present on and near the islands where the species pups and breeds. If the mortality rate due to entanglement is similar to that estimated for fur seals, it would explain the observed monk seal decline which began in the late 1950's or early 1960's.

5. What role does the Commission perform with regard to the coordination of marine mammal conservation activities of the Federal Government? In the absence of the Commission, could another existing entity perform its functions?

The Commission's coordinating role is described in detail in its Annual Reports to Congress. Among the things done by the Commission are the following: (a) conduct continuing reviews of research programs, management programs, and proposed Federal actions bearing upon the conservation and protection of marine mammals; (b) organize and convene workshops, and undertake such studies as are necessary and possible to better define marine mammal conservation problems and possible solutions thereto; (c) organize and participate in interagency coordination and planning meetings; and (d) recommend appropriate research and management activities to prevent wasteful duplication and to better achieve the intents and purposes of the Marine Mammal Protection Act.

The Commission's effectiveness is due to the fact that it is independent and has clearly described statutory responsibilities which it can objectively fulfill inasmuch as the potential for conflicts of interest is precluded by the Statute which vests regulatory authority for marine mammal activities in other agencies of the government. No other agency has either this statutory insulation from potential conflicts or the small size to enable it to act as impartially, effectively, and quickly as the Commission.

6. What is the status of the terms of office of the existing Commission members? What is the process by which new members are named, and what process has been followed in the past?

The Commission Chairman, James C. Nofziger, and Commissioner MacCallum were both appointed to fill unexpired terms and are eligible for appointment to full three year terms. Commissioner Weeden's appointment expires on May 13, 1984.

Appointments to the Commission are subject to confirmation by the Senate. In the Congressional Record of December 20, 1982, Senator Packwood stated: "...all future members of the Marine Mammal Commission shall be confirmed by the Senate...The members of the Commission currently in place are not covered by this change in procedure...the Congress in taking this action is insisting on an orderly transition to the new system of advice and consent appointments to the Commission. Congress intends that the current Commissioners shall continue to serve until they are replaced by a new nominee, or nominees, who have been confirmed by the Senate in the 98th Congress or thereafter." Thus, standing Commissioners are to continue to serve until their replacements have been confirmed by the Senate.

With respect to the choice of nominees for Senate consideration, the President shall make his selection from a list of names agreed to by the heads of the National Science Foundation, the Smithsonian Institution, the National Academy of Sciences, and the Council on Environmental Quality.

Until late 1982, Senate confirmation was not required.

QUESTIONS SUBMITTED BY SENATOR WEICKER

1. Several years ago the Marine Mammal Commission was given $300,000 for several specific projects. If a similar amount were appropriated in FY 1984, how could it be put to use?

As alluded to in our testimony, there are a number of areas in which we feel that additional emphasis from the Commission would prove beneficial. In all of these instances, we would use whatever money we might receive to assist in the development, undertaking, and conclusion of programs of broader scope than could be afforded by Commission funding alone. In short, we would use the $300,000 to develop cooperatively supported efforts to;

a) expand the involvement of the Commission and its Committee of Scientific Advisors in the development and implementation of living and nonliving resource regimes for Antarctica as well as to continue to make it possible for the Commission to underwrite meetings of the U.S. Ad Hoc Scientific Committee on the Antarctic.

b) further the work now being done on integrated management of marine mammals and fish in the Bering Sea and to undertake a comprehensive program, beginning with an international workshop, to address the serious problem of marine mammal entanglement and death in discarded fishing nets and packing bands in the North Pacific Ocean;

c) provide for careful review of biological data on the status on various populations and species of marine mammals in Alaska as a part of the process leading to return of management;

d) increase efforts to develop and implement a management plan for the southern sea otter; and

e) undertake additional studies aimed at improving our understanding of the biology and ecology of certain species of endangered great whales.

CHRYSLER LOAN GUARANTEE PROGRAM

The following is testimony submitted for the record on behalf of the fiscal year 1984 budget request of the Chrysler Loan Guarantee Program.

STATEMENT OF LACHLAN W. SEWARD
DIRECTOR, OFFICE OF CHRYSLER FINANCE
U.S. DEPARTMENT OF THE TREASURY

Mr. Chairman and Members of the Subcommittee:

My testimony will discuss the Administration's request for an appropriation to cover the Fiscal Year 1984 administrative expenses of implementing the Chrysler Corporation Loan Guarantee Act of 1979.

On March 15, 1983, the Loan Guarantee Board submitted its fifth Report to the Congress for the period October 1, 1981, through September 30, 1982, as required by Section 14 of the Guarantee Act. A copy of that report is attached.

Administrative Expenses

Mr. Chairman, the Administration requests an appropriation for Fiscal Year 1984 of $1.005 million, including 10 funded positions to enable the Board to administer the Loan Guarantee Program established by the Guarantee Act. As you know, our approach to this program is to seek appropriations for administrative expenses on an annual basis only because of its temporary nature.

The funds and positions provided by this appropriation are used to maintain the Office of Chrysler Finance and related support activities in the Treasury Department. The Loan Guarantee Board requires staff assistance and other services to satisfy its responsibilities under the Act. Those responsibilities include negotiations relating to the guaranteed and unguaranteed portions of Chrysler's four-year financing plan; the continuing analysis of Chrysler's four-year operating plan, financing plan, and other plans necessary for the Board to make the determinations required by the Act in order to protect the government's interest in the guarantees; and, presentation of annual reports to the Congress concerning its activities.

These responsibilities will continue throughout the entire period that guarantee commitments and guaranteed loans are outstanding. The level of activity, however, should significantly decrease after December 31, 1983, when the Board's authority to issue guarantees expires. It is the Treasury's intention to use only the minimum resources needed to meet the requirements of the Act given Chrysler's actual financial condition at any given time.

The expertise necessary to support the Loan Guarantee Board may continue to require contractual services from the private sector. Should this be the case, we would expect to continue to use the public accounting and management consulting firm of Ernst & Whinney or an equivalent firm to help us analyze and evaluate Chrysler's current status and its operating plans. We also would employ, as needed, the law firm of Cahill, Gordon & Reindel or an equivalent firm to help us prepare the legal documents and review legal issues incident to the financing transaction, including security arrangements. Ernst & Whinney and Cahill, Gordon & Reindel have assisted the Treasury since the beginning of the Chrysler program.

Actual expenses for these administrative purposes for Fiscal Year 1982 were approximately $826,000 with 13 funded positions. For the current Fiscal Year (1983), the Office of Chrysler Finance has an anticipated appropriation of $1,222,000 and 13 funded positions. Since a further issuance of guaranteed loans is very unlikely, we expect the actual 1983 expenditure to be substantially less than the $1.222 million.

For Fiscal Year 1984, we are requesting a substantially lower appropriation of $1,005,000 and 10 funded positions to indicate our expectation that this program will wind down after the authority to issue new loan guarantees expires on December 31, 1983. In keeping with what we see as the reduced need for resources to monitor Chrysler's present and expected condition, the FY 1984 appropriation request and funded positions represent reductions of 18 percent and 23 percent respectively relative to the FY 1983 request. In fact, Chrysler's plans show cash balances at favorable levels well into 1983 at least, with Chrysler beginnning to repay the guaranteed loans this year and continuing to make substantial repayments in 1984 and 1985. If this proves to be the case, it would be our plan to hold administrative costs to levels below the amount requested in the 1984 budget and prepare to phase this program out in the ensuing years.

One key area of our budget, the reliance on outside experts, has diminished and will level off or possibly decline slightly more. In Fiscal Year 1982, approximately $817,000 of the $1.356 million request was budgeted for the use of consultants. In Fiscal Year 1983, approximately $698,000 of the $1.222 million has been budgeted for consulting services. Yet, we would expect to obligate no more than $300,000 for consultants in fiscal 1983 based upon Chrysler's current condition. Consistent with our overall request for Fiscal Year 1984, the allocation for consultants is reduced to $550,000, a 21 percent decrease. By using internal staff to do more of the analysis, however, we expect to be able to hold actual expenditures to less than that amount if Chrysler's financial condition does not deteriorate. Nevertheless, the request for Support Services in the FY 1984 budget leaves the capability to cope with unforeseen emergencies, such as the unlikely event of a drawdown in the first quarter of FY 1984.

Of the 16 authorized internal positions, 13 are currently on board. We anticipate gradually reducing on board staffing through Fiscal Year 1983 if conditions do not require intensive oversight of the Chrysler Guarantee. It is our intention to apply the same standards to staffing levels as to all other resources for the office. At present, positions in the Office of Chrysler Finance are divided equally among the individuals responsible for analysis of Chrysler's Operating Plan and among those responsible for analysis of its Financing Plan.

CHRYSLER CORPORATION LOAN GUARANTEE PROGRAM
Administrative Expenses

Summary of Budget Estimates:

	Positions	Amount ($000)
Appropriation, Fiscal 1983	13	$1,211
Base Adjustments:		
Pending Supplementals:		
Pay Costs	---	11
Program	---	---
Subtotal, Supplementals	---	11
Other Adjustments	---	---
Base for Fiscal Year 1984	13	1,222
Fiscal Year 1984 Decreases	<3>	<217>
Appropriaton Requested for FY 1984	10	$1,005

The Chrysler Corporation Loan Guarantee Program is requesting $1,005,000 for FY 1984 and 10 funded positions. This reflects a decrease of $217,000 from the anticipated appropriation of $1,222,000 for FY 1983 and a decrease of 3 funded positions. The FY 1984 request is substantially lower than FY 1983 to indicate our expectation that this program will wind down after the authority to issue new loan guarantees expires on December 31, 1983. This would result in a reduced need for resources to monitor Chrysler's present and expected condition.

CHRYSLER CORPORATION LOAN GUARANTEE PROGRAM
Administrative Expenses
($000's)

Budget Activity:
Administrative Expenses

	FY 1981 Actual		FY 1982 Actual		FY 1983 Anticipated 1/		Current FY 1984 Estimate	
	Pos./WY	Amount	Pos./WY	Amount	Pos./WY	Amount	Pos./WY	Amount
Total obligations	10	$1,029	14	$826	13	$1,222	10	$1,005
Unobligated balance lapsing . . .	---	320	---	530	---	---	---	---
Budget authority	10	1,349	14	1,356	13	1,222	10	1,005

1/ The FY 1983 anticipated total is based on the present Continuing Resolution, Public Law 97-377, in effect through September 30, 1983. This includes the $11 requested supplemental funding ($9 for the October 1982 Pay Act and $2 for the Medicare Hospital Insurance Tax).

FEDERAL MARITIME COMMISSION

The following is testimony submitted for the record on behalf of the fiscal year 1984 budget request of the Federal Maritime Commission.

Federal Maritime Commission
Washington, D.C. 20573

April 11, 1983

Mr. John Shank
Clerk
Subcommittee on State, Justice, Commerce,
the Judiciary and Related Agencies
Committee on Appropriations
United States Senate
Washington, D. C. 20510

Dear Mr. Shank:

Pursuant to your request, the Federal Maritime Commission submits the following information in support of its fiscal year 1984 budget estimates.

Our Fiscal Year 1984 budget estimates in the amount of $11,324,000 provide funding for 240 total workyears of employment. Including pay supplementals, this is a reduction of $447,000 and 38 workyears from our 1983 appropriation of $11,771,000 and 278 workyears.

Let me briefly outline the Commission's major responsibilities and accomplishments in 1982. The Commission is responsible for the regulation of ocean carriers in the U.S. foreign and domestic offshore trades; we investigate discriminatory rates and practices among shippers, carriers, terminal operators, and freight forwarders operating in the U.S. ocean commerce; we license independent ocean freight forwarders; we provide passenger vessel certification; and we certify that vessels in U.S. waters are financially responsible for the clean up of pollution by oil and hazardous substance.

During Fiscal Year 1982, the Commission issued 494 final decisions regarding 83 formal proceedings, 121 special docket applications, 276 informal dockets, and 14 rulemakings.

The Commission settled 81 malpractice cases representing $2,295,353 in civil monetary penalties. These included $1,172,500 for 19 tariff related violations by carriers including violations of the anti-rebate statutes, $897,103 for 21 cases for obtaining transportation at unlawful rates and 41 other settlements for various violations totalling $225,750.

At the close of Fiscal Year 1982, the Commission collected and deposited directly to the Treasury approximately $3 million in fees and penalties. This revenue represents 26 percent of the Commission's 1982 operating expenses. Through the assistance of the FMC's Office of Informal Inquiries and Complaints, consumers were able to recover more than $127,000 directly from commercial entities. Filing and service fees were increased to more accurately reflect the rising cost of providing services to the ocean shipping industry.

The budget that we have submitted reflects our commitment to support the President's budgetary goal to reduce Federal expenditures. There is one item related specifically to this budget which I would like to call to your attention before concluding. The budget submission reflects a very close coordination with the Office of Management and Budget. In our discussions with OMB, we assume that certain legislation will be passed and other administrative transfers will take place prior to the beginning of Fiscal Year 1984. These include the enactment of the Shipping Act of 1983, the deregulation of the domestic offshore trades, and the transfer of the Oil Pollution Certification function to another agency. To date, only the transfer of oil pollution responsibility appears to be relatively certain, as this item can be dealt with by executive order. If this transfer takes place as anticipated, the Commission will be able to eliminate 19 positions (staff years) and $475,000. These respective figures have already been incorporated into this budget submission which we fully support. However, it is our understanding that if, for some unexpected reason, the transfer of Oil Pollution Certification is not accomplished, then the Commission fully expects that consideration be given to appropriate adjustments in our FY '84 budget.

I might add that the consolidation of these functions into one agency will result in increased efficiencies, better service to the public, and ultimately lower costs to the government.

In addition, enclosed is a comparative summary of the budget request by activity. If I can be of further assistance, please feel free to contact me on 523-5911 or our Budget Officer, Mr. Frederick Trutkoff, on 523-5770.

Sincerely,

Alan Green, Jr.
Chairman

FEDERAL MARITIME COMMISSION
Salaries and Expenses
($ in thousands)

Estimate by Budget Activity	1982 Actual Pos./WY.	1982 Actual Amt.	1983 Enacted 1/ Pos./WY.	1983 Enacted 1/ Amt.	1983 Anticipated 2/ Pos./WY.	1983 Anticipated 2/ Amt.	Current 1984 Estimate Pos./WY.	Current 1984 Estimate Amt.
1. Formal Proceedings	66 63	$3,022	63 59	$3,075	63 59	$3,163	63 59	$3,504
2. Regulatory policy and Planning	10 9	342	9 9	312	9 9	323	9 9	347
3. Consumer Affairs	2 2	86	2 2	89	2 2	91	2 2	99
4. Energy and Environmental Impact	6 4	163	5 5	196	5 5	201	3 3	114
5. Agreements	29 26	936	28 24	955	28 24	977	24 20	922
6. Tariffs	55 51	1,586	53 50	1,609	53 50	1,642	43 40	1,448
7. Certification and Licensing	25 26	867	26 26	847	26 26	869	7 7	298
8. Hearings and Field Operations	71 63	2,492	65 61	2,518	65 61	2,575	63 59	2,623
9. Administration	42 40	2,004	39 39	1,899	39 39	1,930	38 38	1,969
TOTAL	306/284	$11,498	290/275	$11,500	290/275	$11,771	252/237	$11,324
Part Time Employment	3/3		3/3		3/3		3/3	

1/ Enacted under the Continuing Resolution (Public Law 97-377) through September 1983.

2/ Includes any supplementals, rescissions, deferrals.

STATEMENT OF
THE HONORABLE ALAN GREEN, JR.
CHAIRMAN
FEDERAL MARITIME COMMISSION

Good morning. Mr. Chairman and Members of the Committee, I welcome this opportunity to appear before you to discuss the budget estimates for the Federal Maritime Commission.

With me today are Mr. James K. Cooper, the Commission's Managing Director, and Mr. Frederick F. Trutkoff, Director of the Office of Budget and Financial Management.

Our Fiscal Year 1984 budget estimates in the amount of $11,324,000 provide funding for 240 total workyears of employment. Including pay supplementals, this is a reduction of $447,000 and 38 workyears from our 1983 appropriation of $11,771,000 and 278 workyears.

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At the close of Fiscal Year 1982, the Commission collected and deposited directly to the Treasury approximately $3 million in fees and penalties. This revenue represents 26 percent of the Commission's 1982 operating expenses.

Through the assistance of the FMC's Office of Informal Inquiries and Complaints, consumers were able to recover more than $127,000 directly from commercial entities.

Filing and service fees were increased to more accurately reflect the rising cost of providing services to the ocean shipping industry.

The budget that we have submitted reflects our commitment to support the President's budgetary goal to reduce Federal expenditures.

There is one item related specifically to this budget which I would like to call to your attention before concluding.

The budget submission reflects a very close coordination with the Office of Management and Budget. In our discussions with OMB, we assume that certain legislation will be passed and other administrative transfers will take place prior to the beginning of Fiscal Year 1984. These include the enactment of the Shipping Act of 1983, the deregulation of the domestic offshore trades, and the transfer of the Oil Pollution Certification function to another agency. To date, only the transfer of oil pollution responsibility appears to be relatively certain, as this item can be dealt with by executive order. If this transfer takes place as anticipated, the Commission will be able to eliminate 19 positions (staff years) and $475,000. These respective figures have already been incorporated into this budget submission which we fully support. However, it is our understanding that if, for some unexpected reason, the transfer of Oil Pollution Certification is not accomplished, then the Commission fully expects that consideration be given to appropriate adjustments in our FY '84 budget.

I MIGHT ADD THAT THE CONSOLIDATION OF THESE FUNCTIONS INTO ONE AGENCY WILL RESULT IN INCREASED EFFICIENCIES, BETTER SERVICE TO THE PUBLIC, AND ULTIMATELY LOWER COSTS TO THE GOVERNMENT.

THIS CONCLUDES MY OPENING STATEMENT. I WILL BE HAPPY TO RESPOND TO ANY QUESTIONS YOU MIGHT HAVE.

CONCLUSION OF HEARINGS

Senator **WEICKER**. This concludes the series of hearings conducted by the subcommittee on the requests of the departments and agencies under its jurisdiction. The subcommittee is in recess subject to the call of the Chair.

[Whereupon, at 11:08 p.m., Tuesday, April 26, the hearings were concluded and the subcommittee was recessed, to reconvene subject to the call of the Chair.]

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